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IDENTIFIERS	*Alaska; *Individuals with Disabilities Education Act

ABSTRACT

This Alaskan state plan details services to be provided to preschool, elementary, and secondary students for Fiscal Years 1995, 1996, and 1997 under the Individuals with Disabilities Education Act (IDEA). The state plan discusses compliance and services under IDEA provisions that address: (1) the right to education; (2) full educational opportunity goal; (3) identification of students with disabilities; (4) Individualized Education Programs; (5) procedural safeguards; (6) confidentiality of personally identifiable information; (7) least restrictive environment; (8) protection in evaluation procedures; (9) responsibility of state educational agency; (10) comprehensive system of personnel development; (11) private schools; (12) recovery of funds; (13) notice and opportunity for hearings on local educational agency applications; (14) annual evaluation; (15) use of Part B Funds; (16) local education agency applications; (17) interagency agreements; (18) personnel standards; and (19) transition. Appendices include information on compliance monitoring, the preschool grant application, and interagency agreement guidelines. (CR)

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ALASKA
STATE PLAN

ED 426 521

STATE PLAN UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

FISCAL YEARS

1995
1996
1997

Alaska State Board of Education
Gerald Covey, Commissioner
801 W. 10th Street
Juneau, Alaska 99801
(907) 465-2800

Submitted by
Myra Howe, State Director of Special Education
(907) 465-2971

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United States Department of Education
Office of Special Education and Rehabilitative Services
Office of Special Education Programs
Washington, DC 20202

EC 306953

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PART I

SUBMISSION STATEMENT, CERTIFICATIONS, AND ASSURANCES

A. SUBMISSION STATEMENT

I, the undersigned authorized official of the State Educational Agency of the State of Alaska, hereby submit the following State Plan under Part B of the Individuals with Disabilities Education Act (Act), which includes the Preschool Grants Application under section 619 of the Act, for Fiscal Years 1995, 1996, and 1997 (i.e., the grant periods beginning July 1, 1994, July 1, 1995, and July 1, 1996). Unless otherwise noted, the policies and procedures, and the certifications and assurances that are used throughout this submission, including references to Part B and to the State Plan, also apply to the Preschool Grants Application.

Signature of Authorized Official

2-25-94
Date

Mike Maher, Deputy Commissioner of Education
Type Name and Title

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B. ASSURANCE STATEMENTS

The State of Alaska makes the following assurances and provisions as required by Part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411-1420):

1. In carrying out the requirements of 20 U.S.C. 1412, procedures are established for consultation with individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities and parents or guardians of children with disabilities (20 U.S.C. 1412(7)(A)).

2. Programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including subpart 2 of part D of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, under which there is specific authority for the provision of assistance for the education of children with disabilities, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs (20 U.S.C. 1413(a)(2)).

3. Federal funds made available under the Act: (A) will not be commingled with State funds; and (B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the control of State or local educational agencies) expended for special education and related services provided to children with disabilities and will in no case be used to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free public appropriate education, the Secretary may waive in part the requirement of this clause if the Secretary concurs with evidence provided by the State (20 U.S.C. 1413(a)(9)(B) and 20 U.S.C. 1414(a)(2)(B)(ii)).

4. The State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in, or concerned with, the education of children with disabilities, including individuals with disabilities, teachers, parents or guardians of children with disabilities, State and local officials, and administrators of programs for children with disabilities, which:

   (A) Advises the State educational agency of unmet needs within the State in the education of children with disabilities;

   (B) Comments publicly on any rules or regulations proposed for issuance by the State regarding the education of children with disabilities, and the procedures for distribution of funds under the Act; and

   (C) Assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of his responsibilities under 20 U.S.C. 1418 (20 U.S.C. 1413(a)(12)).

5. The Individuals with Disabilities Education Act, as amended, will not be construed by the State to permit the State to reduce medical or other assistance available under, or to alter the eligibility requirements of, programs funded in whole or in part through Title V (Maternal and Child Health) or Title XIX (Medicaid) of the Social Security Act, with respect to the provision of a free appropriate public education for children with disabilities within the State (20 U.S.C. 1413(e)).

6. The State has policies and procedures to ensure that any amendment to the plan submitted by the State shall be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission of the amendment to the Secretary (20 U.S.C. 1412(2)(E)).

7. Control of funds provided and title to property derived therefrom, shall be in a public agency for uses and purposes provided, and a public agency will administer such funds and property; and fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and

accounting for, Federal funds paid to the State, including any such funds paid by the State to local educational agencies and intermediate educational units (20 U.S.C. 1413(a)(6) and (10)).

8. The State will make such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part (20 U.S.C. 1413(a)(7)).

C. GENERAL STATE APPLICATION - EDGAR ASSURANCE

The State educational agency provides assurances that it will comply with the provisions contained in 34 CFR 76.101 and section 435 of the General Education Provisions Act.

D. CERTIFICATIONS REQUIRED BY EDGAR

In accordance with 34 CFR 76.104 the State educational agency assures that:

1. The Plan is submitted by the State agency that is eligible to submit the Plan.
2. The State agency has authority under State law to perform the functions of the State under the program.
3. The State legally may carry out each provision of the Plan.
4. All provisions of the Plan are consistent with State law.
5. A State Officer, specified by title in the certification, has authority under State law to receive, hold, and disburse Federal funds made available under the Plan.
6. The State Officer who submits this Plan, specified by title in the certification, has authority to submit the Plan.
7. The agency that submits the Plan has adopted or otherwise formally approved the Plan.
8. The Plan is the basis for State operation and administration of the program.

E. EXECUTIVE ORDER 12372

This State certifies that:

To the best of our knowledge and belief, data in this State Plan are true and correct, the document has been duly authorized by the governing body of the State education agency, and the State will comply with the attached assurances if the State Plan is approved.

The State Plan was submitted to the State's "single point of contact" under Executive Order 12372 on no SPC.
Month/Day/Year

F. PUBLIC PARTICIPATION

Each State educational agency must provide documentation that the public participation requirements in 34 CFR 300.280-300.284 and section 435 of the General Education Provisions Act have been met. (See OSEP Memo 94-1, II-E, for further details.)

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WALTER J. HICKEL, GOVERNOR

GOLDBELT PLACE
801 WEST 10TH STREET SUITE 200
JUNEAU, ALASKA 99801 1894

DEPARTMENT OF EDUCATION

EDUCATIONAL PROGRAM SUPPORT

February 28, 1994

Barbara Route
U.S. Department of Education
Office of Special Education Programs
400 Maryland Ave. S.W.
MES Switzer Building
Washington, D.C. 20202

Dear Ms. Route:

The responsibility for preparation and implementation of the State Plan under Part B of the Individuals with Disabilities Education Act as amended rests with the Alaska Department of Education. The general public has been notified of the availability of the State Plan and public hearings have been held in accordance with 34 CFR 300.280 to 300.284 and Section 435 of the General Education Provisions Act.

Public meetings for the purpose of taking comments were held at the following locations:

February 15, 1994	Anchorage
February 15, 1994	Juneau

Public prior notice for these meetings was accomplished by paid legal notices placed in five newspapers around the state (see attached copy of ad and Advertising Orders). Additionally, drafts of the State Plan were sent to all public agencies with an interest in the education of children with disabilities (see attached copy of letter).

There were three comments on the State Plan (see attached letter).

1. The Governor's Council noted that contrary to what the draft of the State Plan stated, the Governor's Council does not provide any educational services.

2. The Department was criticized for not taking a stand in the State Plan in favor of "full inclusion."

3. Some districts do not like the idea of reinstating a computerized child count system.

A change in the State Plan was made to address the first issue above. References to "services" provided by the Governor's Council were deleted.

No changes were made in the State Plan in regard to comments # 2 and 3 above.

The post-approval notification required by 34 CFR 300.284 will be conducted in the same manner as above. Notification will be made in five newspapers and copies of the approved State Plan will be made available to the same parties who received draft copies of the plan.

Regards,

Richard Smiley
EPS/Special Education Services

c:\stateplа\PUBCOMM.DOC [02/28/94]

WALTER J. HICKEL/GOVERNOR
State of Alaska

GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION

P.O. Box 240249 • Anchorage, Alaska 99524-0249 • Phone: 907-563-5355 • Fax: 907-563-5357

MEMORANDUM

DATE: February 18, 1994

TO: Richard H. Smiley, Department of Education

FROM: David Maltman, Executive Director

RE: Comments on Special Education State Plan FY 95 - 97

Please consider the following comments for incorporation into the State Plan required by Part B and Section 619 of IDEA.

Page 1: We are disappointed that there is no reference in the Policy Statement of the plan that addresses the Department's position on adopting an inclusionary philosophy. The plan is an excellent way to make a public statement about the inclusion of special education students in regular classrooms.

According to a letter that we received from Commissioner Covey dated 12/22/93, the Department's laws and regulations permit inclusion. Additionally, the letter states that the Department supports the delivery of educational programs in the least restrictive environment. At a minimum these statements should be included for scrutiny by the appropriate federal agency.

It would improve Alaska's State Plan to make the statement that the Department believes that all students must be educated in school environments which fully include rather than exclude them. Additionally, Full Inclusion means that all children must be educated in supported, heterogeneous, age appropriate, natural, child focused learning environments for the purpose of preparing the students to participate in the diverse and integrated Alaskan community.

Page 9: The Governor's Council responsibilities are misrepresented. The Council is to evaluate, plan and promote services to special education students. We want this section to be clear that we do not provide educational services to other agencies.

Page 31: Since state law has been revised, all sections should refer to the Governor's Council on Disabilities and Special Education. There are inconsistent references to the Council on Handicapped and Gifted throughout the plan.

Appendix: Attached is a current list of the members of the Council's Education Committee which fulfills the duties of the Special Education Advisory Panel. The list indicates the required areas of representation.

Thank you for considering these improvements to the State Plan. Once approved, please mail us a copy of the final document.

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STATE OF ALASKA
ADVERTISING ORDER

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AO- [redacted] 054165

FROM
Richard Smiley
Department of Education
801 W. 10th Street, Suite 200
Juneau, AK 99801

AGENCY CONTACT: Richard Smiley
DATE OF A.O.: 12/21/93
PHONE: (907) 465-8702

DATES ADVERTISEMENT REQUIRED:
~~Immediately upon receipt for three consecutive issues.~~
Run 5 days continuous days beginning on December 28, 1993

THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN ITS ENTIRETY ON THE DATES SHOWN.

SPECIAL INSTRUCTIONS:

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Juneau Empire
3100 Channel Drive
Juneau, AK 99801

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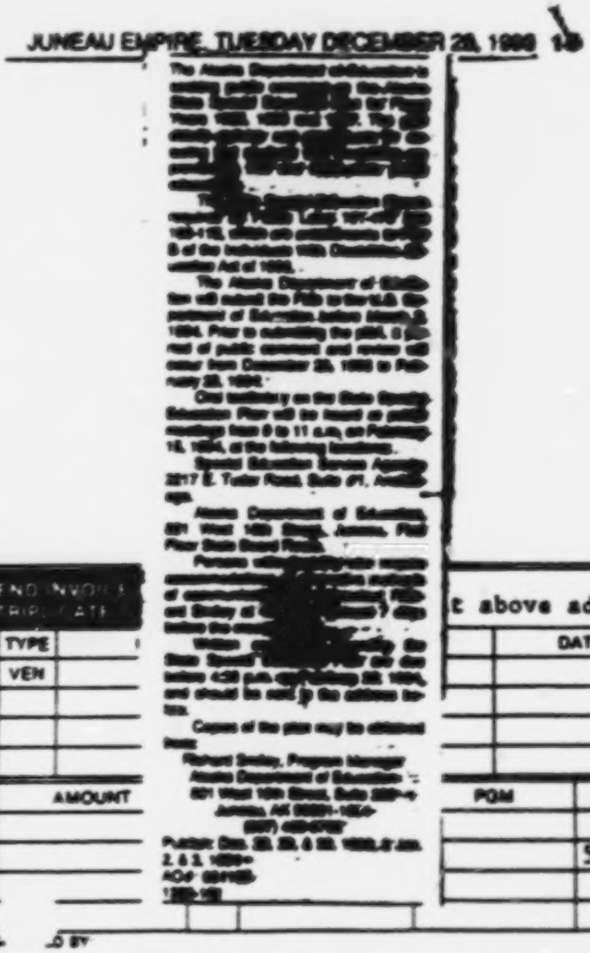
JUNEAU EMPIRE, TUESDAY DECEMBER 28, 1993



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Department of Education
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Juneau, AK 99801-1894

AGENCY CONTACT Richard Smiley
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DIVISION APPROVAL: Harry S. Gamble

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The Alaska Department of Education is seeking public comment on the Alaska State Special Education Plan for Fiscal Years 1995, 1996 and 1997. The plan details policies and procedures for ensuring that students with disabilities are provided a free and appropriate public education.

The State Special Education Plan is required by Public Laws 101-476 and 102-119, which are amendments to Part B of the Individuals With Disabilities Education Act of 1990.

The Alaska Department of Education will submit the Plan to the U.S. Department of Education before March 2, 1994. Prior to submitting the plan, a period of public comment and review will occur from December 28, 1994 to February 28, 1994.

Oral testimony on the State Special Education Plan will be heard at public meetings from 9 to 11 a.m. on February 15, 1994, at the following locations:

Special Education Service Agency, 2217 E. Tudor Road, Suite #1, Anchorage

Alaska Department of Education, 801 West 10th Street, Juneau, First Floor State Board Room

Persons with disabilities who require accommodations or alternative methods of communication should contact Richard Smiley at 465-8702 at least 7 days before the meeting.

Written comments regarding the State Special Education Plan are due before 4:30 p.m. on February 25, 1994, and should be sent to the address below.

Copies of the plan may be obtained from:

Richard Smiley, Program Manager
Alaska Department of Education
801 West 10th Street, Suite 200
Juneau, AK 99801-1894

(907) 465-8702

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AGENCY CONTACT: Richard Smiley

DATE OF A.O.: 12/21/93

PHONE: (907) 465-8702

FROM:
Richard Smiley
Department of Education
801 W. 10th Street, Suite 200
Juneau, AK 99801

TO PUBLISHER:
Ketchikan Daily News
P.O. Box 7900
Ketchikan, AK 99901

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Department of Education
801 West 10th Street, Ste. 200
Juneau, AK 99801

AGENCY CONTACT: Richard Smiley
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PHONE: (907) 465-8702

TO PUBLISHER
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200 N. Cushman
Fairbanks, AK 99701

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Richard Smiley
Department of Education
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Juneau, AK 99801

AGENCY CONTACT: Richard Smiley
DATE OF A.O.: 12/21/93
PHONE: (907) 465-8702

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STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF EDUCATION

EDUCATIONAL PROGRAM SUPPORT

GOLDBELT PLACE
801 WEST 10TH STREET, SUITE 200
JUNEAU, ALASKA 99801-1894

January 11, 1994

MEMORANDUM

TO:
Superintendents
Special Education Directors and Coordinators
Advocacy Services of Alaska
P.A.R.E.N.T.S.
Governor's Council on Disabilities and Special Education
Special Education Service Agency
University of Alaska, Schools of Education: Fairbanks, Anchorage & Juneau
South East Regional Resource Center
Other Interested Parties

Richard Smiley

FROM: Richard H. Smiley, Program Manager

SUBJECT: Special Education State Plan for Fiscal Years 1995, 1996 and 1997.

Enclosed is a draft copy of the Alaska State Plan for Fiscal Years 1995, 1996 and 1997 (State Plan). The State Plan is required by Part B and Section 619 of the Individuals with Disabilities Act (IDEA).

This draft of the State Plan is being disseminated to all interested parties in Alaska in order to provide reasonable opportunity for participation in the planning and operation of Alaska's special education program. This participation includes suggestions for improving the administration of the special education program and allegations that there has been a failure by any entity to comply with applicable statutes and regulations.

The draft State Plan will be available for pubic review and comment until February 28, 1994. On February 15, 1994, oral testimony on the draft plan will be taken from 9 to 11 a.m. at the Alaska Department of Education, 801 West 10th Street, Juneau and the Special Education Services Agency, 2217 E. Tudor Road, Suite 1, Anchorage.

Send written comments on the draft State Plan to:

Richard Smiley, Program Manager
Alaska Department of Education
801 West 10th Street #200
Juneau, AK 99801

The final version of the State Plan will be submitted to the US. Office of Education by March 1, 1994.

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PART II.

SUBSTANTIVE REQUIREMENTS

POLICIES, PROCEDURES, AND DESCRIPTIONS

The FY 1995-97 State Plan must be a complete, intact document that includes the State's policies and procedures, and any other required information for each of the provisions listed below:

1. Right to Education Policy Statement (20 U.S.C. 1412(1); 1412(2)(B); and 1412(6); 34 CFR 300.121-300.122)
2. Full Educational Opportunities Goal (20 U.S.C. 1412(2)(A); 20 U.S.C. 1418(b)(6); 34 CFR 300.123-300.126[1])
3. Child Identification (20 U.S.C. 1412(2)(C); 34 CFR 300.128)
4. Individualized Education Program (20 U.S.C. 1412(4); 34 CFR 300.130)
5. Procedural Safeguards (20 U.S.C. 1412(5)(A); 34 CFR 300.131 and 300.136)
6. Confidentiality (20 U.S.C. 1412(2)(D); 1417(c); 34 CFR 300.129)
7. Least Restrictive Environment (20 U.S.C. 1412(5)(B); 34 CFR 300.132[2])
8. Protection in Evaluation Procedures (20 U.S.C. 1412(5)(C); 34 CFR 300.133)
9. Responsibility of SEA for Education Programs (20 U.S.C. 1412(6); 34 CFR 300.134)
10. Comprehensive System of Personnel Development (20 U.S.C. 1413(a)(3); 34 CFR 300.139[3])

---

[1] Data requirements for 34 CFR 300.126 are met through the submission of the Annual Data Report.

[2] Data requirements for 34 CFR 300.132 are met through submission of the Annual Data Report.

[3] Data requirements for 34 CFR 300.139 (CSPD) are met through submission of the Annual Data Report.

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11. **Participation of Private School Children (20 U.S.C. 1413(a)(4)(A); 34 CFR 300.140; 34 CFR 76.650-76.662); Placement in Private Schools (20 U.S.C. 1413(a)(A) and (B); 34 CFR 300.140)**

12. **Recovery of Funds for Misclassified Children (20 U.S.C. 1413(a)(5); 34 CFR 300.141)**

13. **Notice and Opportunity for Hearing on LEA Application (20 U.S.C. 1413(a)(B); 34 CFR 300.144)**

14. **Annual Evaluation (20 U.S.C. 1413(a)(11); 34 CFR 300.146)**

15. **Policies and Procedures for Use of Part B Funds (20 U.S.C. 1413(a)(1); 34 CFR 300.148); Description of Use of Part B Funds (20 U.S.C. 1232c(b)(1)(B)(ii); 34 CFR 300.149)**

16. **Additional Information if the State Educational Agency Provides Direct Services (20 U.S.C. 1413(b); 34 CFR 300.151)**

17. **Interagency Agreements (20 U.S.C. 1413(a)(13); 34 CFR 300.152)**

18. **Personnel Standards (20 U.S.C. 1413(a)(14); 34 CFR 300.153)**

19. **Transition of Children from the Part H to Part B Programs (20 U.S.C. 1413(a)(15); 34 C.F.R. 300.154)**

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CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Departmer of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, Stat or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, o use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken agains employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

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Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

____

____

____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT Alaska Department of Education	PR/AWARD NUMBER AND/OR PROJECT NAME Alaska State Plan for Special Educ.
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE Mike Maher, Deputy Commissioner of Education	
SIGNATURE	DATE 2-28-94

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CHAPTER I
RIGHT TO EDUCATION POLICY STATEMENT

All children with disabilities in Alaska, ages 3-21, are ensured the right to a free and appropriate public education. These assurances are provided in the state constitution, state statutes, and regulations promulgated by the Alaska Department of Education.

In Alaska, two major agencies are responsible for a free appropriate public education for children with disabilities from birth through five years of age.

The Department of Education must "...provide appropriate public education for exceptional children in the state who are at least three years of age, but less than 22 years of age" (AS 14.30.180). Local school districts in Alaska are responsible for providing special education services to children with disabilities from three years of age through age 21. For children transitioning from Infant Learning Programs to school districts, an IEP will be developed and implemented for eligible children by their third birthday.

The Alaska Department of Health and Social Services is responsible to "...provide appropriate public education and training for the exceptional children in this state who have not reached the age of three" (AS 47.20.005). Infant Learning Programs have been established to provide local programs for infants with disabilities.

Quoted below are the specific sections from the Alaska Constitution and Alaska statutes, and specific regulations of the Department of Education that assure *free and appropriate public education for the children of Alaska.*

Note: All quotations of statutes are shown in *italics*; regulations are shown in regular font. The term "exceptional" includes both children with disabilities and those that are Gifted. However, this plan is directed solely at children with disabilities who are eligible for Special Education and/or related services.

I. Free and Appropriate Public Education is Guaranteed by the State Constitution of Alaska:

Article VII, Section 1, Public Education

The Legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the directly benefit of any religious or other private educational institution.

II. The State Statutes of Alaska Assure That:

A. Public education shall be free:

Sec. 14.03.080
Free education

(a) A child of school age is entitled to attend public school without payment of tuition during the school term in the school district in which the child is a resident subject to the provisions of AS 14.14.110 and AS 14.14.120.

(b) A person over school age may be admitted to the public school in the school district in which the person is a resident at the discretion of the governing body of the school district. A person over school age may be charged tuition by the governing body of the school district.

(c) A child under school age may be admitted to the public school in the school district of which the child is a resident at the discretion of the governing body of the school district if the child meets minimum standards prescribed by the board evidencing that the child has the mental, physical and emotional capacity to perform satisfactorily for the educational program being offered.

(d) A child who is five years of age before August 15 following the beginning of the school year, and who is under school age, may enter a public school kindergarten.

(e) A child under school age shall be admitted to school in the district of which the child is a resident if immediately before the child became a resident of the district, the child was legally enrolled in the public schools of another district or state.

B. Education shall reach all children, including the child with disabilities.

Sec. 14.03.070
School age

A child who is six years of age before August 15 following the beginning of the school year, and who is under the age of 20 and has not completed the 12th grade, is of school age.

Sec. 14.30.180
Purpose (Education for Exceptional Children).

It is the purpose of AS 14.30.180--14.30.350 to:

(1) provide an appropriate public education for exceptional children in the state who are at least three years of age but less than 22 years of age.;

(2) allow procedures and actions necessary to comply with the requirements of federal law, including 20 USC 1400-1485 (Individuals with Disabilities Education Act).

The sections, from 14.30.180 through 14.30.350, provide laws covering the following areas:

Section
180. Purpose
186. Coverage
191. Educational evaluation and placement
193. School District Hearings
195. Hearings
231. Advisory committee
235. Withdrawal of Consent
250. Teacher qualifications
255. Administrator qualifications
270. Substitutes
272. Procedural safeguards
274. Identification of exceptional children
276. Least restrictive environment
278. Individualized education program

Section
285. Transfers of exceptional children
305. State support of programs for children hospitalized or confined to their homes
315. State support of programs for gifted children
325. Surrogate parents
335. Eligibility for federal funds
340. When not required to enroll
347 Transportation of exceptional children
350. Definitions

These are presented in subsequent sections of the Plan where specific detail is needed.

C. **There exists a proper legal structure by which the schools can function, including a State Department of Education which has the power to give leadership, coordinate education in the state, and monitor educational activities.**

Sec. 14.03.010
Establishment of school system

There is established in the state a system of public schools to be administered and maintained as provided in this title.

Sec. 14.30.010
When attendance compulsory

(a) *Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall maintain the child in attendance at a public school in the district in which the child resides during the entire school term, except as provided in (b) of this section.*

b) *This section does not apply if a child*
- (1) *is provided an academic education comparable to that offered by the public schools in the area, either by*
  - (A) *attendance at a private school in which the teachers are certificated according to AS 14.20.020;*
  - (B) *tutoring by personnel certificated according to AS 14.20.020; or*
  - (C) *attendance at an educational program operated in compliance with AS 14.45.100-14.45.200 by a religious or other private school;*

- (2) *attends a school operated by the federal government;*
- (3) *has a physical or mental condition which a competent medical authority determines will make attendance impractical;*
- (4) *is in the custody of a court or law enforcement authorities;*
- (5) *is temporarily ill or injured;*
- (6) *has been suspended or denied admittance according to AS 14.30.045;*
- (7) *resides more than two miles from either a public school or route which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school which the child is eligible and able to attend;*
- (8) *is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting'*
- (9) *has completed the 12th grade;*

(10) is enrolled in

  - *(A) the state boarding school established under AS14.16; or*
  - *(B) a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;*

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends. (§ 37-7-1 ACLA 1949; am § 36 ch 98 SLA 1966; am § 5 ch 71 SLA 1972; am § 5 ch 190 SLA 1975; am § 1 ch 30 SLA 1976; am § 1 ch 10 SLA 1977; am § 4 ch 126 SLA 1978; am § 3 ch 11 SLA 1984; am § 1 ch 78 SLA 1987; am § 4 ch 73 SLA 1988)

Sec. 14.07.010
Department of Education

The Department of Education includes the commissioner of education, the state Board of Education, and the staff necessary to carry out the functions of the department.

Sec. 14.07.020
Duties of the department

The department shall

(1) establish, maintain, govern, operate, discontinue, and combine area, regional and special schools;

(2) enter into contractual agreements with the Bureau of Indian Affairs or with a school district to share boarding costs of secondary school students;

(6) acquire and transfer personal property, acquire real property, and transfer real property to federal agencies, state agencies, or to political subdivisions;

(7) enter into contractual agreements with school districts to provide more efficient or economical education services; reasonable fees may be charged by the department to cover the costs of providing services under an agreement, including costs for professional services, reproduction or printing, and mailing and distribution of educational materials;

(10) apply for, accept, and spend endowments, grants, and other private money available to the state for educational purposes in accordance with AS 37.07 (the Executive Budget Act);

(11) Set student tuition and fees for educational programs provided and schools operated by the department under the provisions of AS 14.07.020 (12) and (1) of this section;

III. Regulations Established by the Department of Education Further Assure Free and Appropriate Public Education.

4 AAC 05.010
Purpose (Local Education)

(a) The purpose of this chapter is to ensure that, consistent with the desires of parents and of local communities, the school-age children in the State of Alaska have the opportunity to attend an elementary or secondary school in the local communities in which they reside.

(b) Nothing in this chapter is intended to require the construction of a new facility in which to conduct a school established pursuant to this chapter, if there exists in the community a suitable facility in which the school may be conducted.

4 AAC 05.030
Local Education

(a) Every child of school age has the right to a public education in the local community in which he resides.

(b) Neither the department nor a district may require a child to live away from the local community in which he resides to obtain an education.

4 AAC 60.120
Recognition of special needs

At the age of three years, an exceptional child may receive special assistance as a part of the local school district's annual plan of services for special education. Any pre-elementary school which provides services for an exceptional child and receives state funds for providing those services must adhere to state guidelines for special education programs.

4 AAC 52.020
District responsibility (For special education)

Each district shall administer a program offering special education and related services so as to provide an appropriate educational program for exceptional children ages 3 - 21 who reside within the district.

CHAPTER II
FULL EDUCATIONAL OPPORTUNITY GOAL

I. OVERVIEW OF FACILITIES, PERSONNEL AND SERVICE

The previous chapter gave a broad perspective of the commitment by the State of Alaska to provide free and appropriate public education (FAPE). The cited portions of the constitution, the state statutes, and agency regulations displayed the general legal structure for accomplishing the goal. This chapter details by how local, regional, and state agencies accomplish FAPE.

Alaska, because of its sparse population in most areas of the state, cannot use the traditional local school district concept except in a few towns and urban locations, such as Anchorage, Juneau, Fairbanks, and Ketchikan. Hence, the legislature has created three kinds of local school districts; (1) city, (2) borough, and (3) regional attendance areas that may cover thousands of square miles. In turn, these districts may form special districts to provide low demand services, or support regional resource centers.

At the state level, two departments are charged by law to assure accessibility and availability of education and related and others services. The State Department of Education (DOE) has the responsibility, through the local and regional agencies, to assure that educational and related services are delivered to all school age children, 3-21 inclusive. The Department of Health and Social Services (DHSS) must serve all citizens with disabilities, from birth to death. More specifically, it must serve the educational needs of children from birth to three years of age. The Governor's Council on Disabilities and Special Education must provide consulting and other services to all other agencies, and can provide some educational services directly through a subsidiary organization called the Special Education Service Agency (SESA).

The lead agency for 0-3 year olds is the DHSS through its Infant Learning Program. The lead agency for 4-5 year olds is the DOE through its preschool programs for children with disabilities. These children have been served through these programs for several years.

To ensure that the State of Alaska has undertaken the goal of providing full educational opportunity to all children with disabilities aged birth through 21, the following policies and procedures are adopted.

Obj.	**Policies and Procedures for Implementing FEOG Goal**	**Completion**	**Kind and Number of Facilities, Personnel and Services Necessary to Implement FEOG**
1	Establish school system for special education requiring residential placements	3/76	Facilities Personnel Services-Create Schools for Handicapped Program
2	Develop policy and procedures Handbook for Alaska Special Education system	4/77 & 2/89	Facilities Personnel Services-Procedures Handbook
3	Establish state statutes and regulations governing special education for Alaskan students ages 6-21 years of age	7/83	Facilities Personnel Services-Statutes enacted (Article 3) and regulations enacted (Title IV, Chapter 52)
4	Staff Alaska Department of Education with sufficient personnel to oversee implementation of FEOG	on-going	Facilities Personnel-Four education specialist IIs Services
5	Establish funding mechanism for flowing state and federal funds to schools	2/86	Facilities Personnel Services-Foundation Funding Formula enacted into law
6	Ensure staffing of schools with qualified special education teachers and related services personnel	on-going	Facilities Personnel-estimated 3,000 special ed & related services personnel hired. Services

7	Implement Comprehensive System of Personnel Development to ensure supply of qualified special education staff.	7/86 & cont	Facilities Personnel-On-going committee of 10 professionals Services-Needs assessments, planning, funding,etc.
8	Implement joint services agreement between AKDOE and State Mental Health and Child Custody agencies to serve emotionally disturbed youth	9/87	Facilities Personnel-Three senior program managers at State Level Services-Wrap-around services for SED youth at risk of out-of-state placement
9	Add preschool students ages 3-5 to entitlement group by implementing Section 619 of PL99-457	7/89	Facilities Personnel-Appx. 120 preschool teachers Services
10	Add disabled infants and toddlers ages birth through 2 years of age to entitlement group	6/93	Facilities Personnel-Three early intervention state staff-89 local providers Services-Early Intervention Services for children ages birth through 2
11	Implement transition system to insure smooth movement of disabled students from school to the world of work	11/93	Facilities Personnel-appx. 35 new professionals needed Services-system of local MOAs
12	Establish seamless service system for disabled students ages birth through 21	on-going	Facilities Personnel Services-MOA with Dept. of Health and Social Services (lead agency)
13	Establish working relationship with State Headstart lead agency (Alaska Department of Community and Regional Affairs)	2/94	Facilities Personnel Services-MOA with Dept. of Community and Regional Affairs (Headstart lead agency)

14	Develop method of providing FAPE to adjudicated youth and eligible students in adult correctional centers	6/95	Facilities-appx 8 classrooms in correctional facilities Personnel-appx 16 new special & related services staff Services-MOA with Dept. of Corrections

II. STATUTES AND REGULATIONS IN SUPPORT OF ACCESSIBILITY TO FULL EDUCATIONAL OPPORTUNITIES

The section is organized into seven parts:

A. Agencies responsible for the education of children with disabilities.
B. Financial support available through the state.
C. Transportation.
D. Unusual and specific conditions associated with the needs for full opportunities.
E. Federal funding.
F. Governor's Council on Disabilities and Special Education.
G. Rights of person with disabilities.

Note: All quotations of statutes are shown in *italics*; regulations are shown in regular font.

A. Agencies responsible, directly or indirectly, for the delivery of educational and related services to children with disabilities.

Sec. 14.07.060
Regulations (By the State Board of Education)

The board shall adopt regulations which are necessary to carry out the provisions of this title. All regulations shall be adopted under the Administrative Procedure Act (AS 44.62).

NOTES TO DECISIONS

That the legislature has seen fit to not delegate certain educational functions to local boards in order that schools might be adapted to meet the varying conditions of different localities does not diminish constitutionally mandated state control over education under Alaska Const., art. VII, P 1. Macauley v. Hildebrand, Sup. Ct. Op. No. 741 (File No. 1550), 491 P.2d 120 (1971)

1. Local agencies.

Sec.14.12.010
Districts of state public school system.

The districts of the state public school system are as follows:

(1) *each first class city in the unorganized borough is a city school district;*

(2) *each organized borough is a borough school district;*

(3) *the area outside organized boroughs and outside first class cities is divided into regional educational attendance areas.*

Sec. 14.14.090
Additional duties of school boards

In addition to other duties, a school board shall

(1) *determine and disburse the total amount to be made available for compensation of all school employees and administrative officers;*

(2) *provide for, during the school term of each year, an educational program for each school age child who is a resident of the district;*

(3) *withhold the salary for the last month of service of a teacher or administrator until the teacher or administrator has submitted all summaries, statistics, and reports which the school board may require by bylaws;*

(4) *transmit, when required by the assembly or council but not more often than once a month, a summary report and statement of money expended;*

(5) *keep the minutes of meetings and a record of all proceedings of the school board in a pertinent form;*

(6) *keep the records and files of the school board open to inspection by the public at the principal administrative office of the district during reasonable business hours;*

(7) *establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060;*

(8) *provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a school district to provide teacher housing, whether district owned, leased, rented or through other means, nor does it require a school board to engage in a subsidy program of any kind regarding teacher housing;*

(9) *train persons required to report under AS 47.17.020, in the recognition and reporting of child abuse, neglect, and sexual abuse of a minor;*

(10) *provide for the development and implementation of a preventative maintenance program for school facilities; in this paragraph, "preventative maintenance" means scheduled maintenance actions that prevent the premature failure or extend the useful life of a facility, or a facility's systems and components, and that are cost-effective on a life-cycle basis.*

4 AAC 52.020
District responsibility

Each district shall administer a program offering special education and related services so as to provide an appropriate educational program for exceptional children ages 3 - 21 who reside within the district.

2. Regional attendance centers.

Sec.14.08.031
Regional educational attendance areas

(a) *The Department of Community and Regional Affairs in consultation with the Department of Education and local communities shall divide the unorganized borough into educational service areas using the boundaries or sub-boundaries of the regional corporations established under the Alaska Native Claims Settlement Act, [unless by referendum a community votes to merge with another community contiguous to it but within the boundaries or sub-boundaries of another regional corporation.*

(b) *An educational service area established in the unorganized borough under (a) of this section constitutes a regional educational attendance are. As far as practicable, each regional educational attendance area shall contain an integrated socio-economic, linguistically and culturally homogeneous area. In the formation of the regional educational attendance areas, consideration shall be given to the transportation and communication network to facilitate the administration of education and communication between communities that comprise the area. Whenever possible, municipalities, other governmental or regional corporate entities, drainage basins and other identifiable geographic features shall be used in describing the boundaries of the regional school attendance areas.*

Sec.14.08.021
Authority

The legislature delegates to school boards for each regional educational attendance area the authority to operate the public schools in those areas in accordance with the provisions of this chapter, subject to the provisions of this title and the regulations adopted under it that apply to all school districts in the state.

Sec.14.08.101
Powers

A regional school board may (sue, be sued, contract for all functions, control employees, and...)

(5) *adopt regulations governing organization, policies and procedures for the operation of the schools;*

(6) *establish, maintain, operate, discontinue and combine schools subject to the approval of the commissioner.*

Sec.14.08.111
Duties

A regional school board shall (assume essentially the same duties as local school boards as described above.)

3. Regional resource centers.

Sec.14.12.150
Establishment and purpose (of regional resource centers).

(a) *The districts of the state public school system may join together to establish regional resource centers to provide services, including but not limited to the following: accounting, payroll and other fiscal; media; instructional support; bilingual-bicultural educational; in-service and staff development; student; diagnostic; school management; and school board member training.*

Sec.14.12.160
Regional resource center board grant program; eligibility

(a) *The department may make grants to regional resource center boards which qualify for the grants under the criteria set out in (b) of this section and regulations adopted by the department.*

4. Special Education Service Agency (SESA)

Sec. 14.30.600
Agency established (GCHAG)

There is established, as a public organization, the special education service agency.

Sec. 14.30.610
Governing board

The agency shall be governed by the Governor's Council on Disabilities and Special Education (AS 47.80.030).

Sec. 14.30.630
Powers and duties

(a) The agency may

(1) receive and expend public and private funds to carry out the purposes of the agency;

(2) contract with the department and other public or private agencies for the provision of special education or related services;

(3) do whatever is necessary to carry out the purposes of AS 14.30.600 - 14.30.660.

b) The agency shall

(1) provide special education services including

(A) itinerant outreach services to deaf, deaf-blind, mentally retarded, hearing impaired, blind and visually impaired, orthopedically handicapped, other health-impaired, severely emotionally disturbed, and multi-handicapped students;

(B) special education instructional support and training of local school district special education personnel; and

(C) other services appropriate to special education needs;

(2) *provide for an annual audit of the agency;*

(3) *provide the department with a two-year plan of operation including a description of the services to be offered by the agency, the method by which the services will be evaluated, information on the number of students and school district personnel to be served, a schedule of funds available to the agency from all sources, and other information that may be required by the department by regulation;*

(4) *present an annual budget to the department.*

Sec. 14.30.640
Eligibility for service

The services of the agency shall be available to school districts that serve children whose special education needs occur infrequently, who require specialized services not normally available in the school district, and who cannot be easily served by local school district personnel because of the low number of students in the district in need of the particular service. The agency may provide services to exceptional children, as that term is defined in AS 14.30.350.

Sec. 14.30.650
Funding

Each fiscal year the department shall allocate to the agency not less than $85 for each special education student in the state in average daily membership or the equivalent of two percent of the funds appropriated for special education for that fiscal year, whichever is greater. The amount allocated to the agency shall be reduced each fiscal year by the amount contributed by the department to the Teachers' Retirement System (AS 14.25) or the Public Employees' Retirement System (AS 39.35) on behalf of employees of the agency.

5. Vocational Rehabilitation

Sec. 23.15.080
Eligibility for vocational rehabilitation service

(a) *Vocational rehabilitation service shall be provided directly or through a public or private instrumentality to a handicapped individual who*

(1) *is a resident of the state at the time of application for the service and whose vocational rehabilitation the agency determines after full investigation can be satisfactorily achieved; or*

(2) *is eligible for the service under an agreement with another state or with the federal government.*

(b) *In determining the types and extent of vocational rehabilitation services to be provided to a handicapped individual, the agency shall take into consideration any similar benefits which may be available to the individual under other programs. However, the agency may not take other benefits into consideration when doing so would significantly delay the provision of needed services to the handicapped individual. The agency need not take other benefits into consideration when they are for*

(1) *diagnostic and related services, including transportation and subsistence in connection with those services;*

(2) *counseling, guidance, and referral;*

(3) *training, including personal and vocational adjustment training, and necessary training materials;*

(4) *services to members of families of handicapped individuals;*

(5) *job placement; and*

(6) *services necessary to assist handicapped individuals to maintain suitable employment.*

Sec. 23.15.090
Priority as to eligibility

If vocational rehabilitation service cannot be provided for all eligible handicapped individuals who apply, the agency shall provide by regulation for determining the order to be followed in selecting those to whom the services will be provided.

B. Financial support available through the state.

1. Foundation

Sec. 14.17.021
State foundation aid

(a) *The amount of state foundation aid for which a school district may qualify in a fiscal year is calculated by subtracting from the basic need defined in (b) of this section the required local contributions under AS 14.17.025(a) and 90 percent of eligible federal impact aid for that fiscal year.*

(b) *The basic need of a school district is determined by multiplying the area cost differential of the district under AS 14.17.051 by the number of instructional units in the district under AS 14.17.031 and then multiplying that product by the instructional unit value in AS 14.17.056.*

4 AAC 52.700
Public school foundation program

(a) Each district providing special education and related services to children with disabilities may apply for state financial aid under AS 14.17.010-14.17.250 in accordance with 4 AAC 06.120 and this section.

(b) Public school foundation reports must be submitted, on forms provided by the department, to the Department of Education, Division of Management, Law, and Finance, 810 W. 10th Street, suite 200, Juneau, Alaska 99801.

(c) The department will notify a district of the action taken on a public school foundation report after receipt of the report.

(d) A district may not receive state financial aid under this section for special education or related services provided by the department.

(e) If, after an entitlement review under 4 AAC 52.780, or otherwise, the department determines that an overpayment has occurred, it will, in its discretion, require repayment or withhold all or part of one or more future payments. The decision to do so is subject to appeal under 4 AAC 52.750.

2. Units

Sec. 14.17.031
Allowable instructional units

(a) The department shall adopt regulations defining funding communities within each district which reflect geographic and attendance area factors. For the purpose of determining instructional units, students are counted in the district and the funding community from which they receive educational services. The total number of instructional units in a school district is the sum of the following units for each funding community within the district, as determined by the department.

(3) the number of units for special education determined under AS 14.17.045;

Sec. 14.17.045
Special education instructional units

(a) An exceptional child, as defined in AS 14.30.350, who is enrolled in a special education program, approved by the department, on the last day of the counting period for which a determination is being made, generates 0.056 instructional units if the child receives resource services, 0.1 instructional units if the child receives self-contained services, or 0.333 instructional units if the child receives intensive or hospital/homebound services, as those categories of service are defined by the department by regulation, in the funding community in which the child is served. A child may be counted in one special education category only.

(b) *Notwithstanding (a) of this section, in a district that offers a special education program each funding community receives a minimum of 0.25 instructional units for special education for each funding community in which a child is served or the district receives a minimum of 1.00 instructional units for special education, whichever is greater.*

Sec. 14.17.056
Instructional unit value

The instructional unit value is $61,000.

3. Financial Assistance

SPECIAL NOTE: REDUCTION OF OTHER ASSISTANCE

The Alaska Department of Education has adopted the following assurance pertaining to reductions of other assistance to handicapped children .The Education of the Handicapped Act, as amended, will not be construed by the State to permit the State to reduce medical or other assistance available under, or to alter the eligibility requirements of, programs funding in whole or in part through Title V (Maternal and Child Health) or Title XIX (Medicaid) of the Social Security Act, with respect to the provision of a free appropriate public education for handicapped children within the State.

4 AAC 52.160
Application for assistance from the Department

(a) Applications for assistance under 4 AAC 52.150 (d) must be submitted to the Department of Education, Office of Special and Supplemental Services, 801 W. 10th St., Juneau, Alaska, 99801.

(b) Application must be in writing and must include for each child

(1) diagnostic information regarding the child's exceptionality;
(2) the child's IEP;
(3) a statement of reasons why an appropriate educational program cannot reasonably be made available within the community of residence;
(4) a description of any special treatment or residential needs of the child for which assistance is requested; and
(5) any other information required by the department.

C. Transportation

Sec. 14.09.010
Transportation of pupils

(a) *The department may provide for the transportation of pupils who reside a distance from established schools, and in order to accomplish that purpose may*

- *(1)* *require school districts to enter into contracts with the department for the administration supervision, operation, or subcontracting of the operation of transportation systems for students to and from the schools within their service area;*

- *(2)* *require all school districts, transportation contractors and other recipients of state transportation funds to submit to the department an annual report, which includes a financial statement and other operational data required by the department*

Sec. 14.30.347
Transportation of exceptional children

When transportation is required to be provided as related services, exceptional children shall be carried with other children, except when the nature of their physical or mental disabilities is such that it is in the best interest of the exceptional children, as determined by the school district, that they be transported separately. State reimbursement for transportation of exceptional children shall be as provided for transportation of all other pupils except that eligibility for reimbursement is not subject to restriction based on the minimum distance between the school and the residence of the exceptional child.

4 AAC 60.175
Transportation

An adult must be designated to accompany the driver and provide for safety when more than six pupils are transported in a vehicle. (Eff. 5/20/77, Register 62)

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4 AAC 27.020
Establishment of special education routes

(a) Special education pupils must be transported in accordance with the provisions of AS 14.30.347.

(b) When special education pupils must be transported separately, school districts may establish separate special education routes, subject to approval of the commissioner. A school district may establish separate special education routes for pupils when the district has determined that it is in the pupil's best interest to be transported separately, based on the recommendation of each pupil's child study team established under 4 AAC 33.020(g). These special education routes must meet the following conditions:

- (1) the route must serve at least five special education pupils;
- (2) the criteria set forth in sec. 10(a)(2) of this chapter must be met; and
- (3) the time in transit for any one pupil may not exceed a total of 120 minutes per day unless permission is obtained from the pupil's parents or guardian.

(c) Special education routes are not subject to the one and one-half mile restriction established under sec. 10(a)(1) of this chapter for purposes of state reimbursement. However, state reimbursement will only be made for transportation to and from the pupils' residences and their attendance center or special education attendance center.

(d) Special education routes are not subject to the one and one-half mile restriction established under sec. 10(a)(1) of this chapter for the purpose of redistribution of school enrollments between attendance centers.

(e) It is recognized that some special education routes may require the assignment of an aide to the driver. Subject to approval by the commissioner, fees paid for services of these aides may be included as part of the reimbursable costs of the route.

(f) Subject to approval of the commissioner, state reimbursement will be made for less than five special education pupils who require special transportation on an individual basis. This transportation may be provided by district-owned or contracted vehicles, public carrier, or by payment to parents in place of pupil transportation services, whichever is in the best interest of the pupil.

4 AAC 52.730
State aid for transportation

(a) The department will provide supplemental state aid for the transportation of children receiving special education and related services in accordance with AS 14.30.347.

(b) An application for state aid under AS 14.30.347 must be submitted to the department in accordance with 4 AAC 27.020.

D. Unusual and specific conditions associated with the need for full educational opportunities

1. Transfers

Sec. 14.30.285
Transfers of exceptional children

(a) The department shall institute a statewide program for the education of exceptional children, to ensure that whenever possible children are educated in the state at locations in or near their resident school district.

(b) An identified exceptional child may be sent to an educational program or residential school outside the child's community or school district if the child resides in a community or school district where an appropriate educational program cannot reasonably be made available and if the department determines that provision of special education and related services in another educational program or residential school is appropriate. If the school district and the department approve the enrollment of the exceptional child in another educational program or residential school outside the child's community or school district and the child is enrolled, the child's education expenses shall be paid as follows:

  - *(1) except as otherwise provided by (2) of this subsection, the sending district shall pay all costs associated with the transfer;*
  - *(2) the department may provide financial assistance to the district for a child's education provided for in (1) of this subsection under regulations adopted by the department.*

(c) repealed

(d) For the purposes of this section a child's education expenses are limited to the actual cost of necessary care, transportation, and special education and related services, including room and board.

(e) The educational assessment of an exceptional child which indicates that the educational program which is locally available is inappropriate for the needs of the child shall conform to the standards set out in AS 14.30.191.

(f) A school district shall obtain the consent of the child's parent before a child may be transferred to a school outside the district in which the child resides.

(g) The withholding of consent by a parent or departmental approval for the transfer of an exceptional child under this section does not relieve a school district of the obligation to provide special education and related services to an exceptional child under AS 14.30.186.

2. Enrollment

Sec. 14.30.340
Provision of Special Education in a Private School, Home, or Hospital Setting

(a) If a parent of an exceptional child enrolls the child in a private school at the parent's expense or teaches the child at home, the school district in which the child is located shall make special education and related services available in conformance with an individualized education program under AS 14.30.278.

(b) If a physician certifies in writing, and if the child's individualized education program team then determines that a child's bodily, mental or emotional condition does not permit attendance at a school and the child's parents do not elect to teach the child at home as permitted under AS 14.30.010(b), the school district in which the child is located shall enroll the child in public school and provide the child with special education and related services in conformance with an individualized education program under AS 14.30.278 at the child's home or at a medical treatment facility.

3. Confinement

Sec. 14.30.305
State support of programs for children hospitalized or confined to their homes

A child who is hospitalized or confined to home and who receives at least 10 hours of special education and related services per week may be counted as a pupil in average daily membership when computing state support under the public school foundation program.

4. Inoperative District

Sec. 14.14.120
Inoperative district

(a) *When there are fewer than eight children eligible to attend elementary and secondary school in a district, the school board may declare the district inoperative for that school year.*

(b) *During the school year in which a district is inoperative, the school board shall perform those functions necessary to preserve the financial integrity of the district, to preserve the property and assets of the district, and to otherwise insure against disruption of the continuity of the district business.*

(c) *An inoperative school board shall, if practicable, pay the tuition and boarding costs necessary to enable the school age children within the district to attend school in another district. If a child in an inoperative school district is not attending school in another district, the department shall provide correspondence courses and other materials and charge the school board of the inoperative district an amount equal to the actual cost to the department.*

5. Tuition

4 AAC 09.030
Tuition costs

The tuition rate paid to district schools by the department as the operating agency for schools outside districts and the tuition rate which may be charged by district schools to other school districts or to individuals is determined and governed by the following conditions:

(Note: The sections describing the conditions are omitted but make clear that no tuition charges are to be made to the student, parents, or guardians.)

6. Boarding Program

4 AAC 09.050
Secondary boarding programs

(a) The governing body of a district shall make available, at no cost to the student or the student's parent, a basic boarding program to all secondary school age children in the district who do not have daily access to a school of the appropriate grade level by being transported a reasonable distance.

(Note: The sections describing the rules are omitted but they clearly describe conditions that make the program free to the student.)

7. Cost of Services

4 AAC 52.240
Cost of services

(a) Each district shall evaluate a child and provide special education and related services to the child in conformity with the IEP of the child at no cost to the child or parent.

(b) This section does not prohibit incidental fees which are normally charged to children who do not have disabilities or gifts as part of the regular education program, and does not relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a child with disabilities or gifts.

8. Nondiscrimination

4 AAC 60.160
Nondiscrimination

No pre-elementary school will be approved unless it adopts a policy of nondiscrimination in respect to race, sex, creed, color or religion with the following exceptions:

(1) a pre-elementary school established for an identified group (e.g., physical-mental handicaps) may serve that group only but otherwise may not discriminate;

9. Degrees (For individuals with disabilities)

4 AAC 06.078
Alternative completion requirements; handicapped students

(a) If a handicapped student's handicap precludes the taking of regular curricular offerings, a substitute course in the same subject area may be designed and provided as determined by the child study team. Substitute courses must be noted on the student transcript by "(S)" after the course title.

(b) If a handicapped student's handicap is so severe that substitute course offerings cannot be designed and provided, the student may be awarded a certificate of attendance or completion, based upon completion of the IEP or having attended school until age 22.

E. Use of available federal funds

Sec. 14.30.335
Eligibility for federal funds

Notwithstanding any other provision of AS 14.30.180 - 14.30.350, the department may do all things necessary to qualify for federal funds that are available to the state for the education of exceptional children.

Sec. 14.50.010
Acceptance of federal funds

The legislature assents to federal aid under Public Law 85-864, 72 Stat. 1580, 85th Congress (20 U.S.C. 401-602) on behalf of the state. The commissioner of education may do all things necessary to cooperate with the United States government to participate under the Act and any Act amending or supplementing it, subject to prior concurrence of the governor.

Sec. 14.50.030
Declaration of intent

If the United States Congress enacts legislation making federal money available to the states for teachers' salaries, school construction and other educational purposes it is the desire of the legislature that the governor or the state Board of Education as the federal law may require have sufficient flexibility in the use of money appropriated to the Department of Education to meet all reasonable federal requirements for obtaining the full amount of federal money which may be obtained by the state under such a federal aid program.

Sec. 14.50.080
Consent to reasonable conditions

The governor or the board as the federal law may require may accept all reasonable conditions which may be required by the federal government as a condition to receiving federal money for education purposes.

4 AAC 52.710
Federal financial aid

(a) Each district providing special education and related services may apply for federal financial aid under P.L. 89.313 or P.L. 94.142 in accordance with 4 AAC 06.120 and this section.

(b) An application must be submitted, on a form provided by the department, to the Department of Education, Division of Education Program Support, 801 W. 10th St. Suite 200, Juneau, Alaska 99801.

(c) Each application must contain, in addition to other information determined necessary by the department, a statement of assurance that the district will perform the services described in the application in accordance with this chapter and applicable state and federal law.

(d) The department will notify a district of the action taken on its application within 30 days after receipt of the application. Approval by the department must be received before commencement of activities.

(e) A district applying for financial aid under this section shall submit, on a form provided by the department, a statement of the number of children receiving special education and related services in each of the categories set out in 4 AAC 52.130. In addition

(1) a district applying under 20 USC 1221-1226(Elementary and Secondary Education Act of 1965, P.L. 89-313), as amended in 1988 by P.L. 100-297 shall submit the statement before December 16 of the school year preceding the school year for which application is made and shall include information as of December 1 of that year;

(2) a district applying under P.L. 94-142 shall submit the statement before December 16 of the school year preceding the school year for which application is made and shall include information as of December 1 of that year.

(f) A district that has been determined eligible for financial aid under P.L. 89-313 or P.L. 94-142 shall submit, on a form provided by the department, a quarterly financial report within 30 days after the end of each quarter, and a project description report within 30 days after the close of any activity for which financial aid is provided under this section.

(g) A district that has been determined eligible for financial aid under P.L. 89-313 shall submit, on a form provided by the department, a report of children who received special education and related services and who have also received, or are expected to receive, special education and related services for a city or borough school district before July 1 following the school year for which financial aid is provided under this section.

F. Governor's Council on Disabilities and Special Education

4 AAC 52.030
Advisory Panel

The Governor's Council on Disabilities and Special Education established under AS 47.80.030 - 47.80.090 is the advisory panel under 20 USC 1400-1485, (The Education for All Handicapped Children Act, P.L. 94-142); as amended in 1990 by The Individuals With Disabilities Education Act P.L. 101-476; as amended in 1991 by P.L. 102-119; and AS 14.30.231

Sec 47.80.030
Governor's council for the handicapped and gifted

There is established the Governor's Council for the Handicapped and Gifted. For budgetary purposes, the council is located within the Department of Health and Social Services but is the interdepartmental planning and coordinating agency of the Department of Health and Social Services, the Department of Education, and other departments which deliver services to persons who are handicapped or gifted. In addition, the council is the state planning council for purposes of federal laws relating to the handicapped or gifted. (2 ch 165 SLA 1978)

G. Rights of persons with disabilities

Sec. 47.80.010
Rights of persons with handicaps

Persons with handicaps have the same legal rights and responsibilities guaranteed all other persons by the Constitution of the United States and federal laws and by the constitution and laws of the state. No otherwise qualified person by reason of having a handicap may be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity which receives public funds. Some persons with handicaps may be unable, due to the severity of their handicap, to exercise for themselves all of their rights in a meaningful way; for others modification of some or all of their rights is appropriate. The procedure used for modification of rights shall contain proper legal safeguards against every form of abuse, shall be based on an evaluation of the social capability of the person by qualified experts, and shall be subject to periodic reviews and to the right of appeal to higher authorities.

CHAPTER III
CHILD IDENTIFICATION

I. GENERAL STATEMENT ABOUT RESPONSIBLE AGENCIES

For children, ages 3-21, the DOE has the overall responsibility to ensure the identification, location, and evaluation of all children with disabilities. For children birth through age 2, the DHSS has the responsibility. An interagency agreement between the Department of Education and the DHSS has been implemented to ensure that the child identification activities are coordinated, that there is no gap in services as children move from the early childhood programs into preschool, and that there are transition plans in place. The Special Education Service Agency (SESA) provides assistance to rural districts in the identification, location, and evaluation of low incidence disability students in remote areas.

Each local public school district is responsible for the establishment and implementation of an on-going system for the identification, location, and evaluation of each child ages three through twenty-one suspected of having a disability who resides within the district. The local Infant Learning Program provides child identification activities for birth through age two. The activities can be contracted out to regional resource centers. The Department of Education, through its monitoring for compliance procedures, ensures that all local school districts are carrying out their responsibilities and that all children who are eligible to receive special education and related services are provided those services.

II. PROCEDURES FOR THE IDENTIFICATION AND LOCATION OF CHILDREN WITH DISABILITIES

There are two basic phases involved in establishing that a child with a disability requires special education. The first phase is **identification**. The second phase is **multidisciplinary evaluation**.

Identification should require the least amount of effort and time while still appropriately identifying those children who need to be evaluated. **Multidisciplinary evaluation** must be as elaborate as is necessary to develop a comprehensive special education program for the child if it is determined that a program is needed.

This chapter of the state plan will address the components of the Identification process while chapter VIII will cover Evaluation and Eligibility.

The method used by the Department to determine which children are currently receiving special education and related services and which children are not receiving special education and related services is based on the child find activities described in this section and the child count conducted by the Department on December 1 of each year. In this method, children with disabilities who are not receiving special education and related services are identified, located and evaluated as described in this section and in Chapter VII, Evaluation. Once these children are identified, located and evaluated, those eligible for special education and related services are enrolled following receipt of parental consent for initial placement.

Following the initial placement, all students are counted on the subsequent December 1 child count. The December 1 child count obtains a census of children by age and disability category and indicates how many students are receiving special education and related services. To determine how many students were not receiving special education and related services, the number of students new to special education for a given year is used. This number is obtained by first subtracting exited students from the most recent December 1 child count. The difference is then subtracted from the previous year's child count and the remainder is equal to the number of students who were new to special education and, therefore, not receiving special education and related services previously.

The procedure for insuring that the Department obtains the number of children with each disability category that have been identified, located and evaluated is to monitor each school district's child count. In this procedure, at the time of an on-site compliance review, the child count is verified and individual student files are reviewed. The disabilities assigned to each student are verified against state identification criteria contained 4 AAC 52.130. Children who are mislabeled are deducted from the district's child count (or corrections are made) as part of the corrective action plan written for each district reviewed.

The procedure for monitoring the system for the identification, location and evaluation of children with disabilities as required by CFR 300.128 are conducted on-site in school districts. This occurs at the time that each district is monitored as scheduled on the five-year cycle (each district is visited once each five years). Each district's child find plan is reviewed and evidence that it is being implemented is required at the time of the on-site visitation. Compliance reviewers may interview members of the community to inquire whether any public announcements have been heard or seen (depending on the media employed). Also, parents of children identified as having disabilities may also be questioned about their exposure to the child find activities in which the particular district has been engaged. The referral process of each district is also reviewed and samples of special education files are checked for evidence that evaluations have occurred (e.g. presence of multidisciplinary reports or test protocols).

The most effective method of insuring compliance with the identification, location and evaluation procedures is the public meeting held at the time of each on-site compliance visitation. Parents and the general public are invited to an after-hours meeting with the Department staff and comments from the participants are recorded and shared later with the district staff. These recorded comments become part of the compliance file maintained by the Department and, if any compliance issues are raised by the parents or public, they become a focus of the compliance review. Finally, the complaint investigation process may also reveal information which pertains to the identification, location and evaluation process. Investigations are conducted and resolved by Department staff which may include corrective actions on the part of the district against whom the complaint is filed.

Each district is responsible for the establishment and implementation of an ongoing system for the identification and location of each child, birth through twenty-one, suspected of being a child with a disability who resides within the district. (The DHSS provides child find activities for birth through two.)

The following is a description of how the policies and procedures will be monitored to ensure that the State educational agency obtains the information required under 300.128 (b)(5)(i);

A. Child find policies and procedures of the Alaska Department of Education to ensure the number of children with disabilities within each disability category have been identified, located and evaluated will be monitored as follows:

1. The child counts obtained from each district will be verified for accuracy using two methods:
    a. At the time of each on-site compliance review, the most recent federal child count submitted to the Alaska Department of Education will be verified against pupil attendance records as maintained by each special education teacher or related service provider.

    b. When the Department has switched to an electronic data collection system, verification checks will be computed to ensure that unduplicated counts are received.

    c. Visual scans of special education child will be conducted to ensure the face validity of child counts.

    d. Electronic checks using a 5% over or under factor based on each districts previous year's count will be conducted at the time of the annual data collection.

B. The following is a description of how the policies and procedures will be monitored to ensure that the State educational agency obtains the information required under 300.128 (b)(5)(ii);

The information used to evaluate the effectiveness of the policies and procedures established under 300.128 (b)(5)(i) (see above) will be:

1. The child counts, both electronic and paper;

2. Child count verification forms signed by district representatives at the time these data are submitted to the Department;

3. Comparisons of child counts with previous child counts;

4. Attendance records in school districts;

5. The timelines of data submissions by districts to the Department and by the Department to the US Department of Education.

6. Other historical data pertaining to child counts, as needed.

The components and procedures of the system must be detailed in a written Child Identification (Child Find) Plan. The basic components to be addressed in the plan are: 1) coordination of child identification activities, 2) annual public notice, 3) referrals, and
4) screening programs.

Each of these components is discussed in more detail below. The final section of this Part discusses the concept of regular education intervention.

Role of Coordinating Agency	Timelines	Resources
Activity 1. Child identification coordination The district appoints a Child Identification Coordinator to be responsible for coordinating the development, revision, implementation and documentation of the child identification system. In smaller districts this function may remain with the Director of Special Education	On-going	Resources: Funding for child identification coordinators or others who perform this responsibility may be Title VI-B or state. Outcomes: Child find coordinators or equivalents appointed in 53 school districts annually.

Role of Coordinating Agency	Timelines	Resources
Activity 2. Annual public notice An Annual Public Notice must be given by each school district to inform the community about the right and the availability of educational services for a child with a disability. The notice must be calculated to reach all persons within the district. This may include dissemination of information through public meetings, posters, brochures, newspapers, radio, television and presentations to community groups and agencies.	This activity usually occurs at the beginning of the school year and although it may be on-going and aperiodic.	Resources: Electronic media, print media, public bulletin boards, notices sent home to parents. Title VI-B funds allocated to districts may be used for these purposes. Outcomes: Thorough state-wide saturation of public media with child find notices.

Role of Coordinating Agency	Timelines	Resources
The content of the public notice should include at least: 1) the types of disabilities which qualify as disabling conditions, 2) the educational needs of children with disabilities, 3) the rights of children with disabilities (FAPE), 4) services available to children with disabilities, 5) who to contact in the district (e.g. child identification coordinator) and how to get in touch with that person. The public noticemust be disseminated on an annual basis and be provided in each language for which a bilingual program is required in the district. Additionally, the district must maintain a yearly record of its techniques to ensure public awareness (e.g., clippings from newspapers, copy of brochures).		

Section 3. Referrals

A procedure must be established for receiving referrals of children who are suspected of being a child with a disability. The district shall inform parents, interested agencies and school personnel of the referral procedures. All referrals should be made on a standard referral form and routed to the Child Identification Coordinator. The Child Identification Coordinator should gather information presently available in school records, (e.g. health history, family history, previous evaluations, records of past school performance). The Child Identification Coordinator may need to provide assistance in filling out the form.

The Child Identification Coordinator should review each referral to determine its appropriateness. For example, a referral to special education only because a student is pregnant would probably be an inappropriate referral. Upon determination of an appropriate referral the Child Identification Coordinator shall provide "written notice" to the child's parents and alert the Director of Special Education of the need to assign an Evaluation Coordinator to oversee the required multidisciplinary evaluation.

Section 4. Screening programs

The direct referral process is often based on subjective observations of persons who have had frequent contact with a child. Screening programs are intended to efficiently collect some objective information in a few critical areas to complement any existing subjective information.

Each child must receive a physical examination when the child enters school, and thereafter at regular intervals considered advisable by the district. A vision and hearing screening examination must also be given to each child when entering school and at intervals specified by the district. Other required screening which may be conducted in cooperation with other agencies includes: health, general development, general basic skills, primary language and culture, daily skills in home and community (obtained through parental input). A district must establish and implement written procedures for screening all children in the district ages 3 to 21.

Section 5. Regular education intervention

Children may come to a district's attention as a result of a screening program or because of some initial difficulty with the school curriculum or environment. For a number of these children, particularly those at a younger age, the district can provide home or classroom interventions prior to making a referral to special education.

One stage of regular education intervention support would be to share with parents and teachers proven effective interventions (e.g., knowledge from the effective schools literature). A second stage of regular education intervention would be more formalized and might last 4 to 6 weeks. This stage would involve (1) specific support to parents and/or classroom teachers from school personnel, (2) documentation of specific interventions tried, and (3) formative measures of student progress in areas of difficulty.

The support from school personnel may come from a Multidisciplinary Team or Individual Education Program Team, School Psychologists, Special Education Consulting Teachers, Principals, District Curriculum Consultants or some combination of available support services. The interventions may involve curriculum adaptations; social skills training to implement in the home and/or classroom; cooperative learning concepts; changes in classroom organization, changes in the teacher, the school or schedule. The formative evaluation data will indicate the effectiveness of various interventions. If the student is referred for an individual multidisciplinary evaluation, the regular education intervention information will provide additional data for determining areas of need and for making recommendations.

The rationale for systematic regular education intervention is to catch developing problems early and prevent them from becoming major problems. Avoiding entering a student into the special education process can save time and money and help the student avoid the stigma and "labeling" that often is associated with receiving special education.

Note: **Regular education intervention activities must not be instituted as a means of diverting or delaying a referral to special education.**

III. SUPPORTIVE STATUTES AND REGULATIONS

Sec. 14.30.274
Identification of exceptional children

Each school district shall establish and implement written procedures to ensure that all exceptional children under the age of 22 who reside in the district are identified and located for the purpose of establishing their need for special education and related services.

Sec. 14.30.180
Purpose

It is the purpose of AS 14.30.180 - 14.30.350 to

(1) provide an appropriate public education for exceptional children in the state who are at least three years of age but less than 22 years of age;

(2) allow procedures and actions necessary to comply with the requirements of federal law, including USC 1400-1485 (Individuals with Disabilities Education Act)

Sec. 14.30.186
Coverage

(a) A borough or city school district shall provide special education and related services for exceptional children residing in the district.

(b) The board of a regional educational attendance area shall provide special education and related services in a school in the area for exceptional children residing in the area served by the school.

(e) Exceptional children being educated as provided under AS 14.30.010(b) may receive special education and related services as provided under AS 14.30.180-14.30.350. The exceptional child of a parent who elects to educate the child as allowed under AS 14.,30.010(b) may not be compelled to receive the special education and related services provided under AS 14.30.180-14.30.350.

Sec. 14.30.127
Vision and hearing screening examinations

(a) *A vision and hearing screening examination shall be given to each child attending school in the state. The examination shall be made when the child enters school or as soon thereafter as is practicable, and at regular intervals specified by regulation by the governing body of the district.*

(b) *The Department of Health and Social Services shall*

(1) *set standards for the performance of vision and hearing screening;*

(2) *train and certify public health nurses and school district employees to conduct hearing and vision screening tests;*

(3) *assist with referral and follow-up of children needing professional examination or treatment; and*

(4) *assist with maintenance and repair of screening equipment.*

Sec. 14.30.191
Educational evaluation and placement.

(a) *A school district shall obtain the consent of the child's parent before an initial evaluation or placement in a program of special education and related services.*

(b) *After initial placement in a program of special education and related services and not less than once every three years for as long as the child is assigned to the program, an exceptional child shall receive an educational evaluation for the identification and classification of exceptional children.*

(c) *Before a school district initiates or refuses a change in a child's placement of program, the district shall notify the child's parent.*

(d) *Upon completion of the evaluation and before placement, the school district shall provide to the parent of each exceptional child an opportunity for consultation about the evaluation. A consultation must be available for each reevaluation of the condition and placement of the exceptional child.*

(e) *A parent may obtain an independent educational evaluation by choosing a person from a list provided by the district or by choosing a person by agreement between the parent and the school district at the expense of the school district if the parent disagrees with an evaluation obtained by the school district. The school district may initiate a hearing to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district may not be required to pay for the independent educational evaluation.*

(f) *If the parent obtains an independent educational evaluation at private expense, the results of the evaluation*

  (1) *must be considered by the school district in a decision made with respect to the provision of an appropriate public education to the child;*

  (2) *may be presented as evidence at a hearing regarding the child.*

(g) *If a hearing office requests an independent educational evaluation as part of a hearing, the school district shall pay for the evaluation. (§ 5 ch 144 SLA 1970; am § 6 ch 104 SLA 1971; am § 2 ch 79 SLA 1974; am § 4 ch 147 SLA 1984)*

4 AAC 52.100
Child find

(a) Each district shall establish and implement written procedures for identifying all exceptional children ages 3 - 21 who reside within the district and who need special education and related services.

(b) The procedures established under (a) of this section must include

(1) annual public notice of the educational needs of gifted children and children with disabilities, their right to a free appropriate public education, and the special services available to them within the district;

(2) screening which may be in cooperation with other agencies to include:
- (A) health;
- (B) vision;
- (C) hearing;
- (D) general development or general basic skills;
- (E) primary language and culture; and
- (F) daily skills in home and community obtained through parental input; and

(3) referral for evaluation of children suspected, upon screening, to be exceptional children.

(c) Annual public notice under (b) (1) of this section must be reasonably calculated to reach all persons within the district and must include, as appropriate, the dissemination of information through public meetings, posters, newspapers, radio, and television A district shall provide notice in each language in which a bilingual program must be offered in the district under AS 14.30.400 and 4 AAC 34.055.

4 AAC 52.110
Referral

Each district shall establish and implement written procedures for receiving referrals for evaluation of children ages 3 - 21 who are suspected of being exceptional children. The school district shall inform parents, interested agencies, and school personnel of the referral procedures.

4 AAC 52.115
Timelines

Unless an extension of time is agreed to by all parties, the district shall, within 45 school days after obtaining parental consent for evaluation, evaluate the referred child, develop an IEP if the child is determined to be eligible, and provide the child with special education and related services. (Eff. 7/16/89, Register 111)

4 AAC 52.120
Evaluation

(a) Each district shall conduct an individual evaluation of the educational needs of a child who is referred under 4 AAC 52.110 to determine whether the child is eligible for special education and related services under 4 AAC 52.130.

(b) Tests and other evaluation procedures must

    (1) be selected and administered to eliminate racial and cultural bias;
    (2) be administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;
    (3) have been statistically validated for the purpose for which they are used; and
    (4) be administered by trained personnel in conformity with instructions of the test producer.

(c) The evaluation must be conducted by a multidisciplinary team, which must include at least one teacher or specialist with expertise in the suspected exceptionality.

(d) The child must be assessed in all functions that are related to the suspected exceptionality, which may include health, vision, hearing, intelligence, academic performance, communication status, motor abilities, emotional adjustment, social skills, creative talent, and ability.

(e) A test must be selected and administered to accurately reflect a child's aptitude or achievement level, or any other factors the test is designed to measure, rather than a child's impaired sensory, manual, or speaking skills, unless the test is designed to measure those skills.

(f) No single procedure may be the sole criterion for determining the eligibility of a child for services under this chapter.

(g) Each district shall document information obtained from all of the sources listed in (a)-(f) of this section and carefully consider each source

4 AAC 52.125.
Eligibility.

To determine a child's eligibility for special education and related services, the district shall

(1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

(2) provide that the eligibility decision be made by the multidisciplinary team described in 4 AAC 52.120; and

(3) require the multidisciplinary team to provide a written and dated statement confirming the determination of eligibility. (Eff. 7/16/89, Register 111)

4 AAC 52.130
Criteria for determination of eligibility

(b) To be eligible for special education and related services as a mentally retarded child, a child must

(1) score two or more standard deviations below the national norm on an individual standardized test of intelligence, and exhibit deficits in adaptive behavior manifested during the developmental period which adversely affect the child's educational performance;

(2) require special facilities, equipment, or methods to make the child's educational program effective;

(3) be diagnosed as mentally retarded by a psychiatrist, or by a psychologist who is licensed under AS 08.86, certified under 4 AAC 12.040, or endorsed under 4 AAC 12.060; and

(4) be certified by a multidisciplinary team as qualifying for and needing special education services for the mentally retarded.

(c) To be eligible for special education and related services as a child with a learning disability, a child must

(1) exhibit a specific learning disability as defined in AS 14.30.350 (4)(E);

(2) require special facilities, equipment, or methods to make the child's education program effective; and

(3) be certified by a multidisciplinary team in the manner set out in 34 CFR 300.540-543, as those sections exist as of July 1, 1983, as qualifying for and needing special education services for the learning disabled.

(4) if the child is not less than 3 years nor more than 6 years of age, meet the eligibility criteria for a preschool developmentally delayed child under 4 AAC 52.130(n)(2).

(d) To be eligible for special education and related services as a seriously emotionally disturbed child, a child must

(1) be seriously emotionally disturbed as defined in 34 CFR 300.5 (b) (8);

(2) require special facilities, equipment, or methods to make the child's educational program effective;

(3) be diagnosed as seriously emotionally disturbed by a psychiatrist, or by a psychologist who is licensed under AS 08.86, certified under 4 AAC 12.040, or endorsed under 4 AAC 12.060; and

(4) be certified by a multidisciplinary team as qualifying for and needing special education services for the seriously emotionally disturbed.

(e) To be eligible for special education and related services as a deaf child, a child must

(1) exhibit a hearing impairment which hinders the child's ability to process linguistic information through hearing, with or without amplification, and which adversely affects educational performance

(2) require special facilities, equipment, or methods to make the child's educational program effective;

(3) be diagnosed by a physician or audiologist as deaf; and

(4) be certified by a multidisciplinary team as qualifying for and needing special education services for the deaf.

(f) To be eligible for special education and related services as a hard-of-hearing child, a child must

(1) exhibit a hearing impairment, whether permanent or fluctuating, which adversely affects educational performance but which is not within the meaning of (e) of this section;

(2) require special facilities, equipment, or methods to make the child's educational program effective;

(3) be diagnosed by a physician or audiologist as hard of hearing; and

(4) be certified by a multidisciplinary team as qualifying for and needing special education services for the hard of hearing.

(g) To be eligible for special education and related services as a deaf-blind child, a child must

(1) exhibit concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in a special education program solely for deaf or blind children;

(2) require special facilities, equipment, or methods to make the child's educational program effective;

(3) be diagnosed by an optometrist or ophthalmologist and by a physician or audiologist, as appropriate, as deaf-blind; and

(4) be certified by a multidisciplinary team as qualifying for and needing special education services for the deaf-blind.

(h) To be eligible for special education and related services as an orthopedically impaired child, a child must

(1) exhibit a severe orthopedic impairment, including impairments caused by congenital anomaly, disease, or other causes, which adversely affects educational performance;

(2) require special facilities, equipment, or methods to make the child's educational program effective;

(3) be diagnosed by a physician as orthopedically impaired; and

(4) be certified by a multidisciplinary team as qualifying for and needing special education services for the orthopedically impaired.

(i) To be eligible for special education and related services as a visually impaired child, a child must

(1) exhibit a visual impairment, not primarily perceptual in nature, resulting in measured acuity of 20/70 or poorer in the better eye with correction, or a visual field restriction of 20º as determined by an optometrist or ophthalmologist, which, even with correction, adversely affects educational performance; or

(2) exhibit a physical eye condition that affects visual functioning to the extent that specially designed instruction is needed;

(3) require special facilities, equipment, materials, or methods to make the child's educational program effective as determined by a teacher of visually impaired; and

(4) be certified by a multidisciplinary team, which includes a certified teacher of the visually impaired, as qualifying for and needing special education services for the visually impaired.

(j) To be eligible for special education and related services as a speech-impaired child, a child must

(1) exhibit a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects educational performance;

(2) require special facilities, equipment, or methods to make the child's educational program effective;

(3) be diagnosed by a physician, speech pathologist, or speech therapist as speech impaired; and

(4) be certified by a multidisciplinary team as qualifying for and needing special education services for the speech impaired.

(k) To be eligible for special education and related services as a child, with other health impairments, a child must

(1) exhibit limited strength, vitality, or alertness due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects educational performance;

(2) require special facilities, equipment, or methods to make the child's educational program effective;

(3) be diagnosed by a physician as health impaired; and

(4) be certified by a multidisciplinary team as qualifying for and needing special education services for the health impaired.

(l) To be eligible for special education and related services as a child with multiple disabilities, a child must

(1) exhibit two or more of the conditions described in (b)-(k) and (o)-(p) of this section, the combination of which causes such severe educational problems that they cannot be accommodated in a special education program for only one of the conditions;

(2) requires special facilities, equipment, or methods to make the child's educational program effective;

(3) be diagnosed as set out in (b)-(k) and (o)-(p) of this section for each condition; and

(4) be certified by a multidisciplinary team as requiring special education services which cannot be provided in a program for a single condition set out in (b)-(k) and (o)-(p) of this section.

(m) Each district shall establish written criteria for identifying children having outstanding intellect, ability, or creative talent within the meaning of AS 14.30.350.

(n) To be eligible for special education and related services as a preschool child with disabilities, a child who is not less than 3 nor more than 6 years of age must

(1) be evaluated and certified by a multidisciplinary team as qualifying for and needing special education and related services under (b), (d),.(e), (f), (g), (h), (i), (j), (k), (l), (o), or (p) of this section; or

(2) be evaluated and certified by a multidisciplinary team as qualifying for and needing special education and related services as a preschool developmentally delayed child; a determination under this paragraph must find that the child has learning problems that are not primarily the result of bilingualism, cultural difference, environmental disadvantage, or economic disadvantage, and either

(A) functions at least two standard deviations below the mean, or 25 percent delayed in age equivalency, in at least one of the following five areas:
(i) cognitive development;
(ii) physical development , which includes fine and gross motor;
(iii) speech-language development, which includes articulation, fluency, voice , and language;
(iv) psycho-social development;
(v) self-help skills

(B) functions at least 1.7 standard deviations below the mean, or 20 percent delayed in age equivalency, in two or more of the five areas in (A)(i)-(v) if this paragraph.

(o) To be eligible for special education and related services as a child with autism, a child must

(1) exhibit a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age 3, that adversely affects educational performance; or

(2) exhibit other characteristics often associated with autism such as engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences which adversely affect educational performance; and

(3) not have educational performance adversely affected primarily by a serious emotional disturbance, as defined in 34 CFR 300.7(b)(9);

(4) require special facilities, equipment, or methods to make the child's educational program effective;

(5) be diagnosed as autistic by a psychologist licensed under AS 08.86, certified under 4 AAC 12.040, or endorsed under 4 AAC 12.060; and

(6) be certified by a multidisciplinary team as qualifying for and needing special education services

(p) To be eligible for special education and related services as a child with traumatic brain injury, a child must:

(1) exhibit an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment or both, that adversely affects educational performance;

(2) exhibit impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech caused by open or closed head injuries;

(3) not have brain injuries that are congenital or degenerative, or induced by birth trauma;

(4) require special facilities, equipment, or methods to make the child's educational program effective;

(5) be diagnosed by a physician as having a traumatic brain injury; and

(6) be certified by a multidisciplinary team as qualifying for and needing special education services.

4 AAC 52.180
Reevaluation

(a) Each district shall reevaluate the educational needs of each exceptional child, in the manner set out in 4 AAC 52.120 and 4 AAC 52.125, to determine whether the child remains eligible for services under 4 AAC 52.130, at reasonable intervals determined in light of the child's progress, but not less often than once every three years, or if the child's parent or teacher requests an evaluation.

(b) A child study team shall review the IEP of a child as set out in 4 AAC 52.140 (d).

(c) In addition to the requirements of (a) of this section, for a preschool child with developmental delays, re-evaluation by a multidisciplinary team is required before the child is eligible for special education and related services under one or more of the specific disability categories in 4 AAC 52.130(b)-(l) and (o)-(p).

IV. CHILD FIND ACTIVITIES OF THE ALASKA SEA - FY92

The following is a summary of the activities achieved under the current plan:

A public awareness video was developed and has been aired twice yearly during the duration of the current program plan. This activity has been funded out of Title VI-B funds and has successfully raised public awareness. There has been continued growth in the number of children with disabilities receiving special education especially in the early childhood and preschool area.

An interagency agreement between the Departments of Education and Health and Social Services has been developed in the areas of child find, transition, data keeping, and CSPD.

This activity was jointly funded by Title VI-B and Part H money. This has been very helpful in ensuring that we are identifying all appropriate children and transitioning them successfully from early childhood into preschool programs. A data tracking system is currently being developed.

Child find plans are now required by each district as outlined in the Alaska Special Education Handbook and 4AAC 52.100. Monitoring of districts has revealed an improvement in the comprehensiveness of the child find activities being conducted in the local districts.

The following summarizes the achievements of the Alaska Department of Education Child Find Plan for the current state plan.

1. Conducted on-going public awareness activities to include:
   (a) television child find announcements aired at least 2 times per year on all major T.V. stations throughout the state;
   (b) development of a child find poster for distribution to all local school districts. Title VI-B funds were used for these activities.

2. Coordinated of child identification activities with the Department of Health and Social Services through the implementation of an interagency agreement. This included the training of Infant Learning Program and LEA personnel and on going compliance monitoring. Section 619 funds were used for this activity.

3. Coordinated the transition process between the Infant Learning Programs and LEAs through the implementation of an interagency agreement. This included the training of Infant Learning Program and LEA personnel and on going compliance monitoring. Section 619 and Part H funds were used for this activity.

CHAPTER IV
INDIVIDUALIZED EDUCATION PROGRAM

I. GENERAL STATEMENT

Each public agency is responsible for initiating and conducting meeting for the purpose of developing, reviewing and revising the IEP of a child with a disability. As used in this part, the term "individualized education program" means a written statement for a child with a disability that is developed and implemented in accordance with Regs. 300.341 - 300.350. Each public education agency is given a clear set of guidelines to follow in developing and implementing an IEP with regular evaluation and revisions. In addition the State Department of Education requires the public agency to initiate and conduct a meeting to develop an IEP before referring a child to or placing a child in private school or facility. Also, the Alaska Department of Education requires each parochial school or other private school to develop and implement, in collaboration with the local school district an IEP for each enrolled student with a disability.

In spite of the arrangements for the development of IEPs that the Alaska Department of Education has with other agencies (described above), the Department ensures that each student with a disability in a public agency has an IEP developed and implemented.

It is required for all IEPs that they are in effect at the beginning of each school year, they are in effect before special education and related services are provided to a child, and they are implemented as soon as possible following an IEP meeting. Each public agency is required to maintain records of the IEPs for each child with a disability. The Department of Education regularly monitors to ensure the proper development and implementation of IEPs.

II. PROCEDURES FOR THE DEVELOPMENT AND IMPLEMENTATION OF IEP'S

The following procedures appear in The Alaska Special Education Handbook. Each local education agency must adopt these procedures or develop its own procedures which are in compliance with federal and state requirements and which are approved by the Department of Education.

Section 1. Purpose of IEP

1. The IEP meeting serves as a communication vehicle between parents and the district and allows them, as equal participants, to jointly decide: what the child's needs are, what services will be provided to meet those needs, and what the anticipated outcomes may be.

2. The IEP process provides an opportunity for resolving any differences between the parents and the district concerning a child's education.

3. The IEP sets forth in writing a commitment of resources necessary to enable a child with a disability to receive needed special education and related services.

4. The IEP serves as an evaluation device for use in determining the extent of the child's progress toward meeting the stated goals and objectives.

5. The IEP is a compliance/monitoring document. The Department of Education will monitor districts to insure that children are receiving the services listed on their IEPs.

Section 2. Responsibility for development and implementation of IEP

The district in which the child resides is responsible for the development of the IEP and scheduling the IEP meetings. The parent must be invited to the IEP meeting. If a child resides in a different district than the parents, the parents must still be invited to the IEP meeting. If the parents are unable to attend the IEP meeting, they must be provided with the opportunity to participate in the IEP meeting by telephone or other appropriate means.

Once the IEP is written, the district must immediately implement the IEP as written, regardless of any disagreement. The only exception is if the parent requests a hearing. In this case the child must "stay put" unless an interim placement can be agreed to by the parents and the district.

Note: Signatures are not required on an IEP Consequently, refusal of a parent or other IEP participant to sign an IEP does not affect the district's requirements to immediately implement the IEP

If a child with a disability is enrolled in a parochial or other private school and receives special education or related services from a public agency, he public agency shall:

a. initiate and conduct meetings to develop, review and revise an IEP for the child in accordance with 300.343, and;

b. ensure that a representative of the parochial or other private school attends each meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

Note: *The following definitions pertain to school district. There is no definition of the term "school district" per se.*

4 AAC 05.020
Definitions

In this chapter, unless the context requires otherwise

(1) "commissioner" means the Commissioner of Education;
(2) " community" means a home-rule city, city of any class, and incorporated and unincorporated villages;
(3) "department" means the Department of Education;
(4) "local school committee" or "committee" means an elected advisory school board established pursuant to AS 14.08.115 or, if there is no such board in the community, the BIA advisory school board or an elected borough school district advisory school board established pursuant to AS 14.12.035 or, if there is no BIA advisory school board or elected borough school district advisory school board, the village or city council;
(5) "school" mans a program of instruction which complies with all statutes, regulations and requirements applicable to the operation of public schools in the state;
(6) "curriculum" means a written plan which sets out the scope and arrangement of the educational program planned for a school district.

Sec. 14.17.250
Definitions

(4) "district" means a borough, city or regional educational attendance area.

Note: Each public agency must provide special education and related services to a child with a disability in accordance with an IEP. However, Part B of the Individuals with Disabilities Education Act does not require that any agency, teacher or other person be held accountable if a child does not achieve the growth projected in the annual goals and objectives.

Section 3. When an IEP meeting must be convened

An IEP meeting must be convened under the following circumstances:

1. Within 30 days of determining the student eligible for special education and related services;

2. By the IEP annual review date;

3. When considering a change in the IEP;

4. At the reasonable request of:

    - The parent, a guardian, a person acting as a parent, or a surrogate parent

    - The child's teacher.

Section 4. Participants in IEP meetings

The district shall ensure that the IEP meetings include the following participants:

1. **A representative of the district.**

   A representative of the district, other than the child's teacher, who is qualified to provide, or supervise the provision of special education.

   The representative of the district should have the authority to commit district resources and to ensure that whatever services set out in the IEP will actually be provided.

   For a child who requires only a limited amount of special education, the district could appoint a teacher (other than the child's teacher) as the representative. For a child who requires extensive special education, a key administrator might be the representative.

2. **The child's teacher.**

   In deciding which teacher should participate, the district may wish to consider the following possibilities:

   a. For a child with a disability who is receiving special education, the "teacher" could be the child's special education teacher. If the child's disability is a speech impairment, the "teacher" could be the speech-language pathologist.

   b. For a child with a disability who is being considered for placement in special education, the "teacher" could be the child's regular teacher, or a teacher qualified to provide education in the type of program in which the child may be placed.

3. The child's parents.

One or both of the child's parents. The district shall invite and encourage parents or guardians to actively participate as equal members of an IEP Team to assist the district in developing an appropriate IEP Parents will:

- Verify the accuracy of personal identifying information.
- Provide information and observations about the level of the child's functioning in his or her home environment and community.
- Provide information regarding the child's medical status.
- Through participation in the IEP meeting, assist the district in the development of educational goals and objectives based on the present level of educational performance and identified needs.
- Through participation in the IEP meeting, assist the district in determining the special education and related services to be provided.
- Through participation in the IEP meeting, assist the district in ensuring that the child is placed in an appropriate educational program.

Note: Although extremely desirable a district cannot require parents to participate and some parents may choose not to participate.

4. The child,

- when appropriate, as in cases where the parent requests the child's presence;
- if 16 years old or older; or
- whenever transition services are discussed. All students who are 16 years of age, or older, must be invited, since one of the purposes of the annual IEP meeting will always be the planning of transition services. The transition services component of the student's IEP must address the student's needs, preferences, and interests. Also, any student younger than age 16 must be invited before a decision about transition services for the student is made.

Note: If the student does not attend the IEP meeting, the district must document how the student's needs, preferences, and interests have been taken into account.

5. Representative of a private school.

If a child with a disability is in a private school receiving special education from the district a representative of the private school must attend the IEP meeting.

After a child with a disability enters a private school or facility, any meetings to review and revise the child's individualized education program may be initiated and conducted by the private school facility at the discretion of the public agency.

If the private school or facility initiates and conducts these meeting, the public agency shall insure that the parents and an agency representative:

(a) are involved in any decision about the child's individualized education program; and
(b) agree to any proposed changes in the program before those changes are implemented.

Even if a private school or facility implements a child's individualized education program, responsibility for compliance with this part remains with the public agency and the State educational agency.

6. Transition service providers

For students whose need for transition services is being considered, any meeting to develop, review, or revise the transition services in the IEP must include:

(a) a school district representative responsible for providing or supervising the provision of transition services; and

(b) a representative of each other participating agency providing the transition services included in the student's IEP. If an agency invited to send a representative to a meeting does not do so, the district shall take other steps to obtain the participation of the other agency in the planning of any transition services.

It is important to consider that the needs of the transitioning student will change with time. The IEP team configuration should reflect these changes.

The following **could** participate in the IEP meeting:

1. **Evaluation personnel.**

   For a child with a disability evaluated for the first time, a member of the evaluation team must attend the IEP meeting, or one of the other IEP members must be knowledgeable about the evaluation procedures used with the child, and be familiar with the results of the evaluation.

2. **Related service personnel.**

   If a child's evaluation indicates the need for a specific related service, the related service provider must attend the IEP meeting, or provide a written report concerning the nature, frequency, and amount of related service to be provided to the child.

3. **Other individuals.**

   Other individuals at the discretion of the parent or district. The district should inform the parents of their right to bring other participants to the meeting. It would be appropriate for the district to ask whether the parents intend to bring additional participants to the meeting.

For an IEP meeting to be valid, at least two people must attend: the child's teacher and a representative of the district. One or both parents also must be invited to attend, or if the parents refuse to attend, the district must document its efforts to involve the parents.

Section 5. IEP chairperson

The district should appoint an IEP Chairperson. (For smaller school districts this may be the Director of Special Education.) The Chairperson has the following responsibilities:

1. Schedule a mutually agreeable date, time, and place for the IEP meeting within the required timeline and in a manner that will allow all participants sufficient opportunity for preparation.

2. Notify IEP participants of meeting date, time, and place. Inform participants of the purpose of the meeting, their responsibilities during the meeting, and of the other members who will attend.

3. Collect, review and be prepared to discuss relevant information from committee participants who are not able to attend.

4. Complete identifying information on the IEP form.

5. During the IEP meeting:

    - Introduce members and explain the purpose of the meeting;

    - Inform participants of conference procedures, including procedural safeguards;

    - Review collected student information (past and present);

    - Present for discussion the child's present level of educational performance;

- Present for discussion goals and objectives based on the present level of educational performance;

- Participate in discussion of provision of special education and related services to the child;

- Obtain parent permission for initial educational placement.

6. Document all information required for the IEP process.

Section 6. Parent participation

The district shall take steps to ensure that one or both of the parents of the child with a disability are present at the IEP meeting, or are afforded the opportunity to participate including:

1. Scheduling the meeting at a mutually agreed upon date, time and place.

2. Inviting the parents to the meeting at least ten days in advance unless the parents and district agree to an earlier date. The invitation must indicate the **purpose, time, location, and who will be in attendance. If a purpose of the meeting is the consideration of transition services for a student, the notice must also indicate this purpose, indicate that the agency will invite the student, and identify any other agency that will be invited to send a representative.** The invitation can be either written or oral, and the district must keep a record of its efforts to contact the parents. The district should also inform the parents of their right to bring other participants to the meeting.

3. Arranging individual telephone conference calls with the parents if they cannot attend.

Note: If the invitation is provided orally, the district must document that the meeting will be scheduled at a mutually agreed date, time and place and indicate the purpose, time, location and who will be in attendance.

The invitation to an IEP meeting should not be confused with the requirements for providing written notice to parents.

A child's parent or guardian must be invited to attend all IEP meetings. Even if the child is a ward of the state the child's parents must be allowed the opportunity to participate. The only exceptions are: (1) if the parents' right to oversee the education of their child has been severed by the courts. (2) The child's parents choose to have the child represented by a surrogate parent. In these cases the district would then appoint a surrogate parent.

Only parents, guardians, a person acting as a parent or surrogate parents can represent parents at an IEP meeting.

An IEP meeting can be conducted without a parent in attendance if the district is unable to convince the parents that they should attend. In this case the district must have a record of its attempts to arrange a mutually agreed upon date, time and place such as:

1. Detailed records of telephone calls made or attempted, and the results of those calls.
2. Copies of correspondence sent to the parents and any responses received, and
3. Detailed records of visits made to the parent's home or place of employment, and the results of those visits.

Note: It is required that a district make a concerted effort to ensure parent participation. One letter or one telephone call is not sufficient.

Parents must be given a copy of the completed IEP regardless of whether they attend the IEP meeting. The district must document that the IEP was provided to the parents.

Note: A parent signature on an IEP only indicates participation. Parental signature is not to be construed as an indication of agreement or disagreement with the IEP The district must implement the IEP regardless of the parents' signature.

Section 7. When an IEP must be in effect

An IEP must be in effect before special education and related services are provided to a child. It is not permissible to first place a child in special education and then develop the IEP. The IEP must be developed within 30 days of eligibility determination.

Interim IEP

It is possible to temporarily place an **eligible** child with a disability in a special education program as part of the evaluation process before the IEP is finalized to aid in determining the most appropriate placement. This would require an interim IEP which would be allowed under the following conditions:

1. An interim IEP must be developed which specifies the conditions and timelines for the trial period.
2. The parents must agree in writing (i.e., their signature) to the interim placement.
3. The interim placement must not continue beyond 30 days.
4. An IEP meeting must be conducted at the end of the interim period to complete the IEP
5. All applicable IEP content requirements are met and there is no lapse in services between the interim and final IEP.

Transfers into a District

When a special education student transfers to a new district, the receiving district can implement the existing IEP if the district and the parents are satisfied with the IEP If an IEP is not available, or if the receiving district or the parents are not satisfied with the IEP, another IEP meeting should be conducted. The district and the parents should agree on the placement of the child until an appropriate IEP can be developed. The child could be temporarily placed in a regular classroom, or placed in a special education program.

Section 8. Content of the IEP

The Individual Educational Program **must** include:

A. **A statement of the child's present levels of educational performance.** The statement is a concise written description of the student's strengths and areas of need. The following guidelines should be followed in developing the statement of present levels of educational performance:

1. Statements should be written in easy to understand language that is free of educational jargon.

2. Information must be current.

3. Statements should reflect the results of the assessment data., Test scores should be accompanied by statements which relate scores to the student's level of functioning.

4. There should be a direct relationship between the present levels of educational performance and the other components of the IEP Thus, if the statement describes a problem with a child's reading, this problem should be addressed under both the goals and objectives and the specific special education and related services to be provided.

Listed below are some examples of "present levels of educational performance" statements.

> Tyrone is socially engaged only 70% of the time in social situations, while normally students in social situations are engaged 95% or more of the time.
>
> Nora scored at the second grade level in written expression. This is two grade levels below her expected level of achievement.

Kyoko read 40 words correctly in a minute with 8 errors. This is less than half the average of her fifth grade peers who average 125 words correctly in a minute with 2 or fewer errors.

B. Annual goals and short term objectives.

The goals and objectives should focus on the learning problems resulting from the child's disability. They should address the needs that are summarized in the child's present level of educational performance. There should be at least one goal, with corresponding objectives, for each area of need.

The goals and objectives provide a mechanism for determining whether the child is progressing in the special education program and whether the placement and services are appropriate to the child's special education needs.

Skill area. It is helpful to list the skill areas under which goals and objectives will be written, (e.g., reading, mobility, social skills, language).

Annual goals. Annual educational goals are written statements which describe what a child is expected to learn from his or her educational program within the IEP time period, usually one year. When formulating goal statements the following guidelines should be followed:

1. Goals should be general statements yet focus on different skill areas.
2. Goals should be designed to correct the weaknesses indicated in the present levels of educational performance.
3. Goals should reflect reasonable expectations for student accomplishment.
4. The language of the goals should be easily understood by all members of the IEP committee.

Some examples of possible annual goals are listed below:

Nora will achieve at a grade 4 reading level.

Tyrone will improve his socially engaged time during social situations.

Short term objectives. The short term objectives derive from the annual goals but represent smaller, more manageable learning tasks a student must master on the way to achieving the annual goals. In most cases at least two objectives should be written for each annual goal. Objectives must be measurable: use language which will enable us to **count** what a child does (e.g., To write, To read, To list, To perform). Do not use terms such as: To understand, To appreciate, To comprehend.

Short term objectives must include the following three components to ensure that they can be evaluated:

1. **Objective criteria** which enables progress to be monitored and allows for determination of when the objective has been accomplished, such as:
    a. 95% accurate;
    b. less than 5 times in a day;
    c. 50 correct responses in one minute;
    d. 4 out of 5 trials correct on three consecutive days.

2. **Evaluation procedures** to be used:

   a. direct observation and recording;

   b. criterion referenced tests;

   c. standardized tests;

   d. teacher-made tests.

3. **Schedules** to determine how often the objective will be measured:

   a. once a day;

   b. twice a week;

   c. once a month;

   d. once a year.

Some examples of possible short term objectives are listed below. Each objective has numbers corresponding to the three components: (1) objective criteria, (2) evaluation procedure and (3) schedules.

> To read a 300 word article in the newspaper **(1)** in two minutes with 95% accuracy **(2)** as observed and recorded by the resource teacher **(3)** once a week.
>
> To create **(1)** fewer than 5 disruptions per day for three consecutive days **(2)** as observed and recorded by the teacher's aide **(3)** each day.
>
> To achieve **(1)** 95% accuracy **(2)** on a teacher made spelling test of seventh grade words as checked by the resource teacher **(3)** on a weekly basis.

C. A statement of the specific special education and related services to be provided to the child.

The statement of services contained in the IEP must include the following information:

1. All the specific special education and related services needed by the child in order to receive an appropriate education (e.g., itinerant service, speech therapy, resource service, self-contained service).

2. The total amount of service needed by the child per week. The amount of services to be provided must be stated in the IEP, so that the level of the agency's commitment of resources will be clear to parents and other IEP team members. As long as there is no change in the overall amount, some adjustments in scheduling the services should be possible (based on the professional judgment of the service provider) without holding another IEP meeting.

3. The frequency of on-site program review by each itinerant service provider (e.g., If a child receives daily speech services from an aide who requires monthly on-site supervision from a speech therapist, the amount of service as well as the amount of supervision must be listed).

Examples of complying with the above requirements are listed below:

1. Resource room services, 60 minutes per day, five days per week.

2. Pull-out physical therapy, 60 minutes per week.

3. Consulting services provided to the child's special education teacher, two hours per day, three times per year.

Services must be included in the IEP even if they are not directly available from the district, and must be provided by the district through contract or other arrangements.

> **Note:** Individually prescribed devices such as glasses or hearing aides are generally considered to be personal items and are not a service to be provided by the district, and thus would not be listed as a service need on the IEP

D. The extent to which the child will be able to participate in regular education programs.

The IEP must include a statement of the extent to which the child will be able to participate in regular education programs. Additionally, the same program options and non-academic services which are available to students without a disability must be available to students with a disability. Program options typically include: art, music, industrial arts, home economics and vocational education. Non-academic services and extra-curricular activities typically include athletics, health services, recreational activities and special interest groups or clubs. Examples of meeting this requirement are:

> "Math and Science will be provided by the regular school program," or
>
> For a self-contained student, "Lunch, assembly periods, and other special events will be with the regular school program," or,
>
> "The student will be in the regular school program 25% of his school day."

E. Projected starting date and anticipated duration of services.

The projected starting date and anticipated duration of services must be indicated for each special education and related service. The date must include the month, day, and year, and extend no more than a year from the date of the meeting.

The Individualized Educational Program **should** include the following:

A. Justification for placement.

A justification for placement should be provided on the IEP

B. Modifications necessary in physical education or vocational education.

If modifications are necessary in physical education or vocational education they should be noted on the IEP

C. Suspension or denial of admission.

If it is suspected that a child's behavior could lead to suspension or denial of admission for more than 10 consecutive school days or for an accumulation of more than 20 school days in a school year, a statement of such behaviors should be noted on the IEP Suggestions for a prevention/intervention plan should be included. (This is further discussed in Section 11 of this chapter.)

D. Need for extended school year.

If it is suspected a child may require extended school year services this possibility should be included in the IEP The information used to support the statement should be referenced. (This is further discussed in Section 12 of this chapter.)

E. Special media, materials or modifications.

If any special instructional media or materials (e.g., large print books, phonic ear) or classroom modifications (e.g., preferential seating, furniture modifications) are recommended it is important to specifically highlight these on the IEP

F. Statewide achievement testing.

If it is the judgment of the IEP Team that the child cannot participate in the statewide achievement testing this should be noted on the I.E.P.

* * * * *

Note: It is not permissible to present a completed IEP to parents for their approval. It is appropriate for staff to come prepared with evaluation findings, statements of the child's present level of educational performance, and recommendations regarding annual goals and short-term objectives. District staff must inform the parents at the outset of the meeting that any proposals made are only recommendations for review and discussion. Parents and the other IEP participants must be given the opportunity to actively participate in all decisions affecting the education of the child with a disability.

If a district maintains notes of IEP meetings it is required that participants be informed that the notes do not bind the district to any action, unless aspects of the notes are included in the IEP

Section 9. Proper functioning of hearing aids

The district must ensure that the hearing aids worn by deaf and hard of hearing children in school are functioning properly.

Section 10. Physical education and vocational education on the IEP

If the child can participate fully in the regular P.E. or vocational education program, it is not necessary to describe or refer to P.E. or vocational education on the IEP However, if some modification to the program must be made to accommodate the child, these modifications must be described on the IEP

If the child needs specially designed instruction in P.E. or vocational education, the program must be addressed in the IEP in terms of present levels of educational performance, goals and objectives, and services to be provided.

If the child is educated in a separate facility, the P.E. or vocational education program must be described or referred to in the IEP If the child is in a separate facility that has a standard voc. ed. or P.E. program in which the child can participate without any modifications, then the IEP need only note such participation in the comment section of the IEP

Section 11. Student discipline

Although the right to attend school is a civil right, fully recognized in the courts, it is not an absolute right. School officials can suspend or deny admission to a student for the following reasons:

1. continued willful disobedience or open and persistent defiance of reasonable school authority;

2. behavior which is inimical to the welfare, safety, or morals of other pupils;

3. conviction of a felony which the governing body of the district determines will cause the attendance of the child to be inimical to the welfare or education of other pupils.

Suspension or denial of admission must be undertaken with due regard for the welfare of both the individual and the school in accordance with appropriate procedures. The following general procedures apply to the discipline of students with a disability:

1. Students with a disability shall follow the rules and regulations of the schools which they attend and shall be generally subject to standard disciplinary penalties, except to the extent that modifications of the school's disciplinary penalties are stated in individual IEPs. This requirement, however, shall not restrict the rights to which such students are entitled as students with a disability.

2. A district is authorized to impose short-term suspensions, (i.e., suspensions of a total of ten school days or less). A short-term suspension does not constitute a change of special education placement or a complete cessation of services, or a significant change in placement which would require a re-evaluation.

3. A student with a disability may not be denied admission unilaterally. A student with a disability may not be suspended unilaterally for more than 10 consecutive school days or for an accumulation of more than 20 school days in a school year. Any proposed denial of admission, suspension or cumulation of suspensions of more than twenty school days in a school year is a proposed change of placement and invokes procedural rights under federal law (i.e. 94-142 and Section 504). These rights of parents and students include:

   a. written notice of the proposed action;

   b. right to examine records;

   c. reconvening of the IEP meeting;

   d. right to determine the need for re-evaluation;

   e. the right to a due process hearing with representation of counsel;

   f. the right to remain in the current placement during pendency of due process;

   g. the right to appeal a decision with which they disagree.

4. For any proposed denial of admission, or a proposed suspension which would constitute a change in placement, the MDT must complete an evaluation to determine if the student's behavior is related to the disability, the efficacy of past and current approaches to discipline and whether the current placement is appropriate. The IEP Team must look to documented patterns of behavior found in referral information, multidisciplinary evaluations, and the present levels of performance in the IEP

   a. A student with a disability whose conduct is found to be a result of a disability as determined by the IEP Team may not be suspended for more than 10 consecutive school days or an accumulation of more than 20 school days in any school year without the concurrence of the IEP Team and may not be denied admission. The IEP Team shall modify the student's IEP and/or placement as appropriate.

   b. A student with a disability whose conduct is found **not** to be a result of his disability and whose placement and program are appropriate as determined by the IEP Team will be subject to the regular discipline procedures followed for all students, providing that the procedural protections of federal law are followed. When the IEP Team determines the student is subject to the penalties of the regular discipline procedures, the IEP Team is also determining that the change of placement which may be the result of those procedures is appropriate. The IEP Team will determine the nature and extent of the special educational services that may be provided during such a period of suspension or denial of admission.

c. A student with a disability whose behaviors are determined to be a threat or danger either to himself or others or are so disruptive that the behavior interrupts the educational process for others may not be suspended for more than 10 consecutive school days or an accumulation of more than 20 school days in any school year if the parent has initiated due process proceedings. While review proceedings are pending, the local school district may seek a court injunction barring the student from school. The IEP Team will determine the nature and extent of the special educational services that may be provided during such a period of suspension or expulsion.

5. If a student accumulates, or appears to be likely to accumulate, more than 20 days of suspension in a school year, the IEP Team must be convened to determine:

   a. if the accumulation of more than 20 days of suspension is in fact a significant change in placement;

   b. if the current program and placement are appropriate;

   c. if the behavior is related to the disability.

   Based on its determination, the IEP Team is to make needed modifications in the student's IEP

6. Removing a student from his or her assigned classroom for inappropriate behavior may constitute a suspension, unless it is for short-term crisis management. Suspension of a student with a disability from transportation services, if it causes the student to miss attending school, also counts toward cumulative days of suspension. However, alternative services such as in-school suspension, alternative learning centers, or time-out identified in an IEP, which ensure the continuation of the provision of special education and related services, will not be counted toward the cumulation of 20 school days of suspension.

7. When a significant change in placement has been made through the IEP process to address disciplinary concerns, then a new 20 day limit on suspensions may apply to the new placement as determined by the IEP Team.

Within the school setting one of the goals of discipline is to promote and ensure appropriate student behavior. One key to successful discipline policy and procedures is a positive behavior program which will reinforce and encourage appropriate social and academic behaviors. The IEP Team is the proper group for establishing a positive prevention/intervention plan, particularly for those students demonstrating social and academic needs as a result of their disabling conditions.

The positive prevention/intervention plan is to be developed during the IEP meeting based upon the student's demonstrated academic and social needs. A positive prevention/intervention plan must be based upon specific planned interventions to assist the student in gaining and maintaining control over his or her behavior. This plan is not to be a monitoring plan, but an action plan which is reflected in goals and objectives in the IEP

Modifications in discipline procedures may include specific consequences for specific behaviors and alternative actions to those mandated in district procedures. The process should include a review of the district's discipline procedures with the objective of suggesting possible modifications in procedure which are needed due to the child's disabling condition.

In-school suspension and alternative learning programs, as monitored by the IEP Team, may be used in the discipline of students with a disability. Monitoring should assure that all identified special education and related services are provided. Crisis management procedures which result in a temporary suspension of integrated services or the temporary denial of special education or related services will necessitate notification of parents.

Summary of Steps to Follow in Discipline of Students With a Disability or Students Suspected of Having a Disability

1. Behavior problem occurs requiring administrative action.

2. Review student's records including any IEP or Section 504 Accommodation (e.g. ADD/ADHD). If the behavior is covered by the student's plan, the plan should be followed. If following the plan does not appear to be appropriate under the circumstances, an IEP meeting should be held to determine if the behavior:

   a. poses an ongoing danger or threat of injury to self or others constituting an emergency in which removal is essential. (If the parent does not concur with removal, the district must seek a court order to bar the student from school if suspension is for more than 10 consecutive school days);

   b. requires a suspension of more than 10 consecutive school days;

   c. requires consequences which will result in the accumulation of more than 20 school days suspension within a school year;

   d. requires consequences which will result in the accumulation of more than 20 school days suspension within a school year;

   e. warrants a recommendation of denial of admission.

If the student's behavior does not result in one of the above, the discipline policy of the district can be followed. If the student's behavior does result in any of the above, the district must:

1. Schedule an IEP meeting (or conference for student suspected of having a disability). Notify parents of their due process rights.

2. Hold an IEP meeting prior to the accumulation of 20 school days of suspension to evaluate and determine:

    a. if the accumulated suspensions are a significant change in placement;

    b. if behavior is a result of disabling condition;

    c. efficacy of past and current approaches to discipline;

    d. the appropriateness of the IEP/Section 504. accommodation or need to develop an IEP/Section 504 accommodation;

    e. alternative interventions;

    f. appropriateness of placement;

    g. modifications in the IEP

3. Implement IEP recommendations.

Section 12. Extended school year

For a district to meet the needs of some students with a disability, it may be necessary to provide special education and related services that extend beyond the regular school year, although few students with a disability need extended year services. Provision of extended school year services for one year does not mean that students need such services each year.

Purpose of Extended School Year Services

The purpose of extended school year services is to prevent regression relative to previously learned skills which cannot be recouped in a reasonable length of time, when assessed and demonstrated recoupment capacity is present. Extended school year services for special education students provide a different focus from general summer school programs. Extended school year services provide for an **extension** of the programming from the regular school year, as identified in the IEP

Definitions

Regression - a reversion to a lower level of functioning, as evidenced by a decrease in the performance level of previously attained skills which occurs as a result of an interruption in educational programming.

Recoupment - the ability to regain or recover the level of skills attained prior to interruption of programming.

Regression/recoupment disability - the demonstration of regression beyond a reasonable recoupment period, for which there is assessed and demonstrated recoupment capacity.

General Criteria and Eligibility

A regression/recoupment disability provides the basic premise for establishing criteria and eligibility standards for extended year services. The regression/recoupment disability shall be relative to the student's current IEP instructional goals and objectives and his or her current functioning levels. However, this is not to be construed to include any student who is simply not showing progress in the accomplishment of stated goals and objectives. Determination of the need for extended year services should be the result of a thorough analysis of formal and informal assessment data collected by the MDT.

Procedures

The decision of whether an extended school year is required, and if required how the extended school year should be structured, must be made at an IEP meeting.

The period of extended year services should be defined annually on an individual basis, in consideration of each child's regression/recoupment disability. The length of the school day for extended year services should be defined by the district and should reflect the needs of the students in conformity with the IEP

The district is responsible for providing transportation to and from the extended school year program when transportation is required as a related service.

Section 13. Parent/district disagreement with an IEP

There is a space at the end of the IEP form to indicate agreement or disagreement with the IEP If there is disagreement between the district and the parents, the district must provide the parents with a Notice of Proposed Action and a copy of their rights. If the parents, within 10 days, initiate a hearing as a result of a disagreement, the last IEP shall remain in effect until the disagreement is resolved. If after 10 days no hearing has been initiated, the district shall initiate the new IEP The parents and district could agree to an interim course of action for serving the child until the disagreement is resolved.

Section 14. Private schools

A. Responsibility for serving private school and correspondence school special education students

A district shall provide students enrolled in private schools and correspondence study schools with a genuine opportunity for equitable participation in special education programs. The district shall provide the opportunity to participate in a manner that is consistent with the number of eligible students and their needs. The district shall maintain continuing administrative direction and control over funds and property that benefit students enrolled in private schools.

B. Benefits for private school and correspondence school students

A district may provide special education and related services to private school children or correspondence program children which are different from the special education and related services it provides to public school children if:

1. the differences are necessary to meet the special needs of the children; and

2. the special education and related services are comparable in quality, scope and opportunity for participation; to those provided to public school children with needs of equal importance.

C. Level of expenditures for students enrolled in private schools or correspondence study schools

A district shall spend the same average amount of federal special education funds on a student enrolled in a private school or correspondence study school who receives benefits under the program and a student enrolled in a public school who receives benefits under the program. The district shall spend a different average amount on the program benefits if the average cost of meeting the needs of those students is different from the average cost of meeting the needs of students enrolled in public schools.

D. Separate classes prohibited

A district may not use federal special education funds for classes that are organized separately on the basis of school enrollment or religion of students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in private schools.

E. Funds not to benefit a private school

Federal and state funds and property derived from those funds, may not provide a benefit to the private school.

F. Use of personnel

A district may use federal special education funds to make public personnel available to private schools to the extent necessary to provide equitable program benefits for students enrolled in a private school, if these benefits are not normally provided by the private school.

A district may use federal special education funds to pay for the services of an employee of a private school if the employee performs the services outside of his or her regular hours of duty and the employee performs the services under public supervision and control.

G. Students with a disability voluntarily enrolled in private schools or correspondence study schools

A district must make special education services available to children within the jurisdiction of the district who are voluntarily enrolled by the child's parents in a private school or correspondence study school. The special education services must be at no cost to the parents of the student.

Any child enrolled in a private school or correspondence study school must receive an assessment and an IEP prior to the provision of special education services.

H. Children with disabilities enrolled in private schools by the district

When an appropriate educational program cannot reasonably be made available for a child with a disability within the child's community or school district, the district may send the child to an educational program or residential school outside the child's community or school district for appropriate special education services. The sending district shall pay all costs of the transfer, except that the Department may, through the Alaska Youth Initiative Program, provide financial assistance to the district. Educational expenses are limited to the actual cost of necessary care, transportation, and special education and related services, including room and board.

To apply for approval for funding from the Department, the district must write to the Director of Special Education, State Department of Education, 801 W. 10th Street, Suite 200, Juneau, Alaska, 99801. The application must include a copy of the evaluations that determine the child eligible for special education and which document the need for placement outside the child's community or school district.

The district shall, prior to the determination of or placement of the child in an out-of-district program, initiate and conduct an IEP meeting. The district must ensure that a representative of the out-of-district facility attends the meeting. If the representative of the facility cannot attend, the district shall use other methods to ensure participation, such as individual or conference telephone calls. If a child with a disability was placed in an out-of-district program before the effective date of this plan, the district must ensure that an IEP is developed for the child. After a child with a disability enters an out-of-district placement, any meetings to review and revise the child's IEP may be initiated and conducted by the out-of-district placement at the discretion of the district. If the out-of-district placement initiates and conducts these meetings, the district shall insure that the parents and a district representative:

- are involved in any decision about the child's IEP; and
- agree to any proposed changes in the program before those changes are implemented.

Even if the out-of-district placement implements a child's IEP, responsibility for compliance with relevant statutes and regulations remains with the district and the State Education Agency.

Section 15. Transition

The IEP for each student beginning no later than age 16, and at a younger age if determined appropriate, must include a statement of the needed transition services including, if appropriate, a statement of each public agency's responsibilities or linkages, or both, before the student leaves the school setting.

Transition services are a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities including:

- postsecondary education
- vocational training
- integrated employment (including supported employment)
- continuing and adult education
- adult services
- independent living, and
- community participation.

If the IEP team determines that transition services are not needed in one or more of the areas listed above, the IEP must include a statement to that effect and the basis upon which the determination was made.

The coordinated set of transition activities identified must be:

1. based on the individual student's needs; and

2. include:
    a. instruction;
    b. community experiences;
    c. the development of employment and other post-school living objectives; and
    d. if appropriate, acquisition of functional vocational skills and daily living skills.

Section 16. Review/revision of IEP

Parents, teachers or others can request that an IEP meeting be held for purposes of review or revision. The decision regarding if, when and where the meeting will be held rests with the district. The district should grant any reasonable request for an IEP meeting. Any changes in an IEP, including changes in the short term objectives or changes in the amount of services listed in the IEP, require an IEP meeting.

The IEP must be reviewed at least annually. This process is accomplished by evaluation of the current IEP and development of a new IEP When changes in the IEP are required at times other than the annual review date, these changes may be effected through a scheduled IEP meeting utilizing one of the following options:

1. Review the entire plan and establish a new annual review date.

2. Use an amendment form. When this option is used, the change becomes a part of the IEP and must be reviewed on the IEP's original annual review date.

III. STATUTES AND REGULATIONS THAT SHAPE THE DEVELOPMENT AND USE OF THE IEPs.

A. Procedures

4 AAC 52.140
Individualized education program.

(a) Each school district shall initiate and conduct a child study team meeting to develop, review, and revise a written individualized education program (IEP) for each child who is eligible for services under 4 AAC 52.130 and meets the requirements of AS 14.30.186.

(b) An IEP must

(1) describe an appropriate educational program for the child;

(2) be developed in a IEP team meeting which includes
  (A) a district representative qualified to provide or supervise the provision of special education;
  (B) the child's teacher;
  (C) the child's parent in accordance with 4 AAC 52.210;
  (D) the child when a purpose of the meeting is consideration of transition services, and otherwise, if appropriate;
  (E) a representative of any other agency that is likely to be responsible for providing or paying for transition services;
  (F) other individuals at the discretion of the parent or the district; and
  (G) for the initial meeting, a member of the multidisciplinary evaluation team or one or more other persons knowledgeable about evaluation procedures and program alternatives in the child's exceptionality.

(3) be developed as soon as possible but no later than 30 days after determination of eligibility for special education services; and

(4) include for each exceptionality
  - (A) a statement of the child's present levels of educational performance;
  - (B) the special education and related services to be provided including the amount;
  - (C) the frequency of on-site program review by any itinerant service provider;
  - (D) when needed, assistive technology devices or assistive technology services or both;
  - (E) the extent to which the child will participate in regular education;
  - (F) justification for placement;
  - (G) initiation and duration dates for services;
  - (H) annual goals; and
  - (I) short-term instructional objectives; and objective criteria and schedules for determining, at least on an annual basis, whether the short-term instructional objectives are being achieved;

(5) include, for a child with disabilities, beginning no later than age 16, and at a younger age, if determined appropriate,
  - (A) a statement of needed transition services as specified in 4 AAC 52.145(b), including, when relevant, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting; or
  - (B) a statement of the IEP team's determination that services are not needed in one or more of the areas specified in 4 AAC 52.145(b), and the basis for determination;

(6) for a child served by an infant learning program provided under AS 47.20.010 and determined by the district to qualify as a child with disabilities under this chapter, be developed before the child's third birthday and be implemented on the child's third birthday, unless the third birthday occurs during scheduled school vacation, in which case the IEP must be implemented when school resumes; and

(7) be implemented continuously when school is in session and, when school is not in session, according to extended school year services described in the IEP.

(c) No single procedure may be used as the sole criterion for determining an appropriate educational program for a child.

(d) A child study team must review, and revise if necessary, each IEP on an annual basis or more frequently if conditions warrant. An IEP may only be developed or revised by a child study team.

4 AAC 52.145
Transition Services

(a) Each statement of transition services in the IEP of a student with disabilities must include a coordinated set of activities, designed with an outcome oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment such as supported employment, continuing and adult education, adult services, independent living, or community participation.

(b) The coordinated set of activities described in (a) of this section must be based on the individual student's needs, taking into account the student's preferences and interests and must include needed activities in the areas of instruction, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and functional evaluation.

(c) If the student does not attend the IEP meeting, the district shall take other steps to ensure that the student's preferences and interests are considered in the planning of any transition services.

(d) Transition services for students with disabilities may be special education, if they are provided as specially designed instruction, or related services, if they are required to assist a student with a disability to benefit from special education.

(e) If an agency invited to send a representative to an IEP meeting does not do so, the district shall take other steps to obtain the participation of the agency in the planning of any transition services.

(f) If a participating agency, other than the public agency responsible for the student's education, fails to provide agreed upon transition services contained in the IEP of a student with a disability, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revise the student's IEP.

(g) As used in this section, "participating agency" means a state or local agency, other than the public agency responsible for the student's education, that is financially and legally responsible for providing transition services to the student.

(h) Nothing in this section relieves any participating agency of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

4 AAC 52.115
Timelines.

Unless an extension of time is agreed to by all parties, the district shall, within 45 school days after obtaining parental consent for evaluation, evaluate the referred child, develop an IEP if the child is determined to be eligible, and provide the child with special education and related services. (Eff. 7/16/89, Register 111)

4 AAC 52.180
Reevaluation

(a) Each district shall reevaluate the educational needs of a child, in the manner set out in 4 AAC 52.120 and 4 AAC 52.125, to determine whether the child remains eligible for services under 4 AAC 52.130, at reasonable intervals determined in light of the child's progress, but not less often than once every three years, or if the child's parent or teacher requests an evaluation.

(b) A child study team shall review the IEP of a child as set out in 4 AAC 52.140 (d).

(c) In addition to the requirements of (a) of this section, for a preschool child with developmental delays, re-evaluation by a multidisciplinary team is required before the child reaches age six, for the purpose of determining whether the child is eligible for special education and related services under one or more of the specific handicapping categories in 4 AAC 52.130(b)-(1) and (o)-(p).

B. Parent Involvement.

4 AAC 52.190
Written notice to parent

(a) Each district shall provide written notice to a parent

- (1) a reasonable time before it initiates or changes the identification, evaluation, or educational placement of a child under this chapter; and
- (2) when it refuses a parental request to initiate or change the identification, evaluation, or educational placement of a child under this chapter

(b) The notice required by (a) of this section must include

- (l) a full explanation of procedural safeguards available to the parent under this chapter, including those in 4 AAC 52.580;
- (2) a description of the action proposed or refused by the district, along with an explanation of why the district proposes or refuses to take the action, a description of any alternatives considered by the district, and a statement of the reasons why those alternatives were rejected;
- (3) a description of each evaluation procedure, test, record, or report the district relied on as a basis for the proposal or refusal; and
- (4) a description of any other factors which are relevant to the action proposed or refused by the district.

(c) The notice must be written in language understandable to the general public and, in addition, provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(d) If the native language or other mode of communication of the parent is not a written language, the district shall take reasonable steps to assure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication, and that the parent understands the content of the notice.

4 AAC 52.200
Parental Consent

(a) Consent of a parent must be obtained before

  (1) conducting an initial evaluation under 4 AAC 52.120; or

  (2) initial placement of a child in a program providing special education or related services.

(b) Except as set out in (a) of this section, parental consent may not be required as a condition of any benefit to a parent or child.

(c) Except as provided in 4 AAC 52.160, the district may initiate appropriate proceedings under AS 14.30.340 if a parent refuses consent to enrollment in a program of special education or related services.

(d) For the purposes of this section, "consent" means that (l) the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought; (2) the parent understands and agrees in writing to the carrying out of the activity for which his consent is sought and the consent describes that activity and lists any records that will be released and to whom, and the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

4 AAC 52.210
Parental participation

(a) Each district shall take steps to insure that a parent is at the meeting required under 4 AAC 52.140 or has an opportunity to participate, including scheduling the meeting at a mutually agreed upon time and place and providing the parent with written or oral notice of the meeting sufficiently in advance to insure that he will have an opportunity to attend. The notice must state the purpose, time and place of the meeting, who will attend, and the right of the parent to bring someone with them to the meeting. If the purpose of the meeting is the consideration of transition services for the student, the notice must state that the district will invite the student to the meeting, and identify any other agency that will be invited to send a representative. The district shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf and desire an interpreter or whose native language is not English.

(b) If neither parent is able to attend, the district shall use other methods to insure parental participation, including but not limited to, individual or conference telephone calls or home visits.

(c) A meeting may be conducted without a parent in attendance if the district is unable to convince a parent that he should attend, in which case the district shall maintain a record of its attempts to arrange a mutually agreed on time and place

(d) The district shall provide a copy of the IEP to the parent.

C. IEP content

Sec. 14.30.278
Individualized education program

(a) *The individualized education program for each exceptional child shall include*

- (1) *a statement of the child's present levels of educational performance;*
- (2) *a statement of annual goals, including short term instructional objectives;*
- (3) *a statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;*
- (4) *the projected dates for initiation of services and the anticipated duration of the services;*
- (5) *appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.*

(b) *Each meeting concerning an exceptional child shall include*

- (1) *a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education;*
- (2) *the child's teacher;*
- (3 *at least one of the child's parents;*
- (4) *the child, when appropriate;*
- (5) *other individuals selected by the parent or school district.*

(c) *Each school district shall develop an individualized education program for every exceptional child who receives services or whose parent requests services under AS 14.30.180-14.30.350*

D. Placement

4 AAC 52.150
Placement

(a) Each district shall place the child after development or revision of an IEP in conformity with the IEP.

(b) Repealed 7/16/89.

(c) Placement alternatives include
- (1) regular classes and activities supplemented by resource services;
- (2) self-contained services;
- (3) intensive services;
- (4) homebound/hospital instruction; and
- (5) an institutional program.

(d) If the district determines that it cannot reasonably make an appropriate educational program available to a child with disabilities within the child's community, the district shall seek assistance from the department in accordance with 4 AAC 52.160.

4 AAC 52.580
Placement of child during proceedings.

(a) During the pendency of an administrative or judicial proceeding concerning the identification, evaluation, or educational placement of a child, unless the parties agree otherwise, the child shall remain in the educational placement which preceded the administrative or judicial proceeding.

(b) Notwithstanding (a) of this section, if the proceedings concern an application for initial admission to school, the child must, with the consent of a parent, be admitted to school until completion of all proceedings.

4 AAC 52.160
Application for assistance from the department

(a) Applications for assistance under 4 AAC 52.150 (d) must be submitted to the Department of Education, Office of Special Services, 801 W. 10th St., Suite 200, Juneau, Alaska 99801.

(b) Application must be in writing and must include for each child
  - (1) diagnostic information regarding the child's exceptionality;
  - (2) the child's IEP;
  - (3) a statement of reasons why an appropriate educational program cannot reasonably be made available within the community of residence;
  - (4) a description of any special treatment or residential needs of the child for which assistance is requested;
  - (5) a statement of why the district believes that state financial assistance is necessary; and
  - (6) any other information required by the department.

(c) The department will review the application, and will, in its discretion, request additional information or schedule a site visit to obtain additional information, within 30 days after receipt of the original application, receipt of additional information, or completion of the site visit, unless otherwise agreed by the department and the district. An application for which no offer of assistance is made within 30 days after application is considered denied.

(d) If the department denies assistance under this section, the district may initiate a hearing in the manner provided by 4 AAC 40.

(e) No child may be enrolled in a program outside the child's community without consent of the child's parent or guardian.

E. Record keeping

4 AAC 52.760
Maintenance of records

(a) Each district providing special education and related services shall maintain records which demonstrate to a reasonable certainty, as determined by the department, that the district is in compliance with the requirements of this chapter and with assurances given upon application for state or federal financial aid.

(b) Records required under (a) of this section include for child at least the

- (1) child's name, date of birth, and sex;
- (2) category of eligibility under 4 AAC 52.130;
- (3) date of referral;
- (4) tests and other documents demonstrating eligibility under 4 AAC 52.125 and 4 AAC 52.130;
- (5) IEP;
- (6) services provided, including dates of initiation and termination;
- (7) class and grade attendance records;
- (8) grade level;
- (9) name, address, and telephone number of each parent; and
- (10) correspondence and other communications with a parent required by this chapter.

(c) A district shall maintain records required under (a) of this section until no longer needed to provide educational services, but not less than five years. The records, with the exception of attendance records, must be maintained in a single file.

(d) If the child moves from one district to another, the district that has provided special education and related services shall, subject to the requirements of 4 AAC 52.530 (a) (2), transmit copies of records maintained in accordance with this section to the other district upon request of that district or a parent of the child.

(e) The requirements of this section are in addition to other requirements of 4 AAC 06.120, this chapter, or other law.

4 AAC 52.510
Parental access to records

(a) Except as provided in (c) of this section, each district shall permit a parent to inspect and review any record relating to his child which is collected, maintained, or used by the district under this chapter.

(b) A district shall

(1) provide a parent, upon request, a list of types and locations of records collected, maintained, or used by the district;

(2) respond to any reasonable request of a parent for explanation and interpretation of a record;

(3) provide a parent with a copy of a record upon request;

(4) permit a representative of the parent to inspect and review a record; and

(5) comply with a request to inspect, review, or obtain a copy of a record within a reasonable period not to exceed 10 days and, in any case, before any meeting or hearing relating to the identification, evaluation, placement, or program of a child in which the parent may participate.

(c) A district may presume that a parent has authority to inspect and review a record relating to his child unless the district has been provided reasonable grounds to believe that the parent does not have authority to do so under state law governing such matters as guardianship, dissolution or divorce. Under the regulations for the Family Educational Rights and Privacy Act (20 USC 1232 (g), the rights of parents regarding education records are transferred to the student at age 18, unless otherwise provided by a court of competent jurisdiction.

(d) If a record includes information on more than one child, a parent may inspect and review the information relating only to his child.

F. Compliance Monitoring

The Alaska Department of Education conducts a compliance review of each school district on a five-year cycle. The specific compliance review procedures followed by the Department in order to meet the requirements of 300.130 (b)(2) are contained in Appendix A- Alaska Special Education Handbook: Part X- Compliance Monitoring.

4 AAC 52.770.
Program review

(a) The department will monitor school district programs to insure compliance with the requirements of this chapter and with assurances given upon application for state or federal financial aid.

(b) Upon request by the department, a district shall provide

(1) a list of students receiving services under this chapter, including each student's name, age, exceptionality, type of service, related services, entry date, exit date, and placement;

(2) a list of all administrators, teachers, teacher aides, and related services personnel who provide special education services in the district, including, for certificated staff, the teacher certificate numbers;

(3) a list of persons or agencies in the district from which independent evaluations can be obtained;

(4) a statement of the criteria used to determine eligibility for services as a gifted student under 4 AAC 52.130; and

(5) any other information required by the department.

(c) At least 30 days before visiting a district, the department will provide written notice to the district of the date and purpose of the visit.

(d) The department will submit written results of program monitoring to the district within 30 days after completion of a visit under (a) of this section. The written results will include a statement of necessary corrective action.

(e) If the department determines that a district is substantially out of compliance with the requirements of this chapter, application requirements for state financial aid, or with assurances given for federal financial aid, it will conduct an entitlement review under 4 AAC 52.780.

4 AAC 52.780.
Entitlement review.

(a) The department will, in its discretion, conduct an entitlement review of the records of a district at any time, notwithstanding the results of one or more program reviews under 4 AAC 52.770, to ensure compliance with the requirements of this chapter, with application requirements for state financial aid, and with assurances given upon application for federal financial aid.

(b) The department will submit preliminary entitlement review findings to the district within 30 days after completion of the review.

(c) The district may submit to the department a written response to the preliminary entitlement review findings within 30 days after receipt of the findings by the district.

(d) Within 15 days after receipt of the response of a district to preliminary entitlement review findings, the department will, in its discretion, or the district may, pursue additional means to resolve any issues in dispute between them.

(e) After expiration of the period set out in (d) of this section, the department will issue final entitlement review findings. The final entitlement review findings are subject to appeal under 4 AAC 52.750.

CHAPTER V
PROCEDURAL SAFEGUARDS

I. GENERAL STATEMENT

State statutes and regulations require procedural safeguards be effectively implemented for children with disabilities served by all public education agencies. Specific procedures exist for implementing the procedural safeguards which ensure that the requirements in 300.500-300.514 and 300.562-300.569 are provided to each public education agency. (The requirements for sections 300.562-300-569 are discussed fully later in this chapter.) The State Department of Education regularly monitors every public education agency to ensure effective implementation of these procedures. The Department sponsors a variety of training opportunities for parents of children with disabilities regarding procedural safeguards.

II. PROCEDURES FOR IMPLEMENTING PROCEDURAL SAFEGUARDS

Section 1. Written notice/parental consent

There are a number of proposed actions which require written parent notification. Some actions also require parental consent. Written notice and parental consent are discussed in this section, including the specific requirements for consent and a notice.

Written Notice

A school district shall provide written notice to parents of a child with a disability or child with a suspected disability, within at least ten days prior to the following:

1. When the district proposes to initiate or change the identification, assessment, or educational placement of the child or proposes to make any changes in the provision of a free appropriate public education (FAPE) to the child.

2. When the district refuses to initiate or change the identification, assessment or educational placement of the child or refuses to make any changes requested by the parent in the provision of a free appropriate public education (FAPE) to the child.

Content of Notice

The notice shall include:

1. A description of the action proposed or refused by the district;
2. An explanation of why the district proposes or refuses to take action;
3. A description of each evaluation procedure, test, record or report used in deciding to propose or refuse action;
4. A description of any options the district considered;
5. The reasons for options being rejected;
6. A description of any other factors which are relevant to the proposal or refusal.
7. A full explanation of all procedural safeguards available to the parents.

The notice must be written in language understandable to the general public and, where appropriate, in the native language or other mode of communication used by the parents, and if necessary, communicated orally in the native language or by other means so that the parent understands the content of the notice.

The district must maintain written evidence that these requirements are being met.

Areas Requiring Consent

A district shall document that written parental consent is obtained prior to:

1. Conducting the initial evaluation to determine whether a child is eligible for special education.
2. Initial placement of a child with a disability in a special education program.
3. Disclosing personally identifiable information to unauthorized persons.

Consent means:

- That the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought.
- The parent understands and agrees in writing (the parent's signature) to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists any records that will be released and to whom.
- The parent understands that the granting of consent is voluntary and may be revoked prior to the action, requiring consent, transpiring.

Refusal to Give Consent

When a parent refuses to provide a required consent, the following procedures may be followed by the district:

The district should request, in writing, that the parents or guardians meet with the district staff to discuss the need for an initial evaluation or placement in a special education program. The district will attempt to obtain the parental consent at that meeting.

If the parents or guardians refuse to give consent for initial evaluation or initial placement in a special education program, the district can make a referral to the Department of Health and Social Services (DHSS). If DHSS can show through court action that the child is abused or neglected by being deprived of special education, the parents can be forced by the court to allow the child to receive an evaluation or special education services.

Revoking consent:

- Revoking consent for initial evaluation means that a parent who has provided consent for an initial evaluation, can revoke that consent prior to the evaluation taking place. However, once the evaluation has been completed, a parent cannot revoke consent to revert the child to a previous status, or to have the evaluation disregarded.

Note: If a parent disagrees with the district evaluation the parent has the right to an independent evaluation.

Definitions

"Evaluation means procedures used in accordance with Regs. 300.530-300.534 to determine whether a child is disabled and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade or class.

"Personally identifiable means that information includes:

(a) The name of the child, the child's parents, or other family member;
(b) The address of the child:
(c) A personal identifier, such as the child's social security number or student number; or
(d) A list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.

"Public expense" means that the public agency either pays for the full cost of the evaluation or insures that the evaluation is otherwise provided at no cost to the parent.

Section 2. Impartial due process hearings

Request for Hearing

A parent may initiate a hearing (or a child may initiate a hearing, if the child is the age of 18 and has not been declared incapacitated by a state court), by filing with the district a written request for a hearing to challenge:

- An action or refusal to initiate or change the identification, evaluation, or educational placement of a child, or the provision of free appropriate public education (FAPE) to the child.

- A refusal to honor the request of a parent to amend a record.

- Lack of provision of due process (e.g., the parent was not fully informed of their rights.)

A district may initiate a hearing by sending to the parent written notice of the district's intent to appoint a hearing officer to conduct a hearing to challenge:

- A parent's refusal to consent to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.
- A parent's refusal to consent to the release of a record.
- A parent's request that the district pay for an independent evaluation. The district may initiate a hearing under Reg. 300.506 of this subpart to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

The public agency shall inform the parent of any fee or low-cost legal and other relevant services available in the area if:
(1) The parent requests the information; and
(2) The parents or the agency initiates a hearing under this section.

Mediation

When a district and a parent reach an impasse with a problem, they may request a mediation from the Department. The mediation can be conducted prior to a written request for a hearing. The Administrator for Special Education shall assign a staff member from the Office of Special and Supplemental Services to conduct the mediation. This staff member shall contact the district Director of Special Education, within 5 working days of the request, to arrange a date, time and location for the mediation conference which is convenient to all parties.

The purpose of the mediation conference is to attempt to resolve the differences and, if possible, avoid a hearing. The following components shall be part of the mediation process:

1. A request for a mediation conference should be made to the State Director of Special Education, 801 W. 10th Street, Suite 200, Juneau, AK 99801, 465-2970.

2. The request must relate to a problem which could result in a hearing.

3. The State Director of Special Education will appoint a trained mediator from the staff of the Office of Special and Supplemental Services.

4. The mediation conference shall be an intervening, informal process conducted in a non-adversarial atmosphere and shall be completed within 15 working days after the State Director of Special Education receives the request for the mediation.

5. Any resolution reached as part of the mediation process shall not conflict with State or Federal law and shall be to the satisfaction of both parties.

6. Anyone who is acceptable to both parties may attend the mediation conference. However, neither party can be represented by counsel during mediation.

7. No written documents are required from a mediation conference.

Assignment of Impartial Hearing Officer

The Department has a list of persons available to serve as hearing officers which includes the qualification of those persons. Each district must maintain in district records the Department list of persons and their qualification who may serve as hearing officers. A hearing must be conducted by a hearing officer appointed by the district from a list developed by the Department. Each hearing and each review involving oral arguments must be conducted at a time and place which is reasonably convenient to the parents and child involved.

A hearing officer must have participated in a training program sponsored by the Department.

A hearing officer must be at least 18 years old.

The district shall not assign from the hearing officers list any individual who has any personal or professional bias which might conflict with his or her objectivity toward either of the parties to the hearing or any of the issues to be decided in the hearing. Personal or professional bias means an interest which precludes the individual from performing the responsibilities of a hearing officer in a manner which is not objective and includes:

1. Current or previous service as an employee of any district serving disabled persons. (A person who otherwise qualifies to conduct a hearing is not considered an employee of a district solely because he or she is paid by the district to serve as a hearing officer.)

2. Current or previous responsibility for reviewing, approving, or developing policy or financial actions of a district serving children with disabilities.

3. Previous, current or anticipated receipt of fees for consulting or legal services by the district upon which the individual relies for income.

4. Personal familiarity with the child or the child's parents, including being a relative of the child or the child's parents.

A party to a hearing may object to the assignment of a hearing officer by submitting, in writing, to the Department an objection to the assignment of the proposed hearing officer. Such objection shall be made within 10 days of notification of the appointment of a hearing officer and shall include information supporting a claim of personal or professional bias. The Department shall, within 10 days of receipt, rule on the objection by appointing another person from the list of qualified hearing officers or certifying the individual originally proposed. If another hearing officer is appointed, the procedure set forth above shall also apply in the case of such other individual.

A hearing officer may at any point withdraw from consideration or from service in any hearing in which the hearing officer believes a personal or professional bias exists which might conflict with his or her objectivity on any of the issues to be decided in the hearing.

Conduct of a Hearing

The district shall deliver or mail a notice of the hearing at least 10 days before the hearing. The hearing must be recorded and must be conducted according to the following rules:

1. Each party may be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.

2. Oral evidence may be taken only on oath or affirmation.

3. Each party may compel the attendance of witnesses, call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on matters relevant to the issues even though those matters were not covered in the direct examination, impeach a witness regardless of which party first called the witness to testify, and rebut the evidence against him.

4. The hearing need not be conducted according to technical rules relating to evidence and witnesses:

   a. However, relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a court rule which makes improper the admission of the evidence over objection in a civil action.

   b. Hearsay evidence may be used to supplement or explain direct evidence but is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action.

   c. The rules of privilege are effective in a civil action. The rules of privilege are effective to the same extent that they are recognized in a civil action.

   d. Irrelevant and unduly repetitious evidence may be excluded.

5. Each party shall disclose any evidence to be offered at a hearing for other than rebuttal purposes at least 5 days before the hearing.

6. Each party may prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing.

7. An employee of the district may be called as a witness by any party.

8. A parent may have his or her child present and may open the hearing to the public.

9. The burden of proof is not on either party; the burden of persuasion is by a preponderance of the evidence.

10. The hearing officer shall render a final decision and mail a copy to each party not later than 45 days after receipt of a parent's request for a hearing, or 45 days after a district sends a written notice as per 4 AAC 52.190. A hearing officer may grant specific extensions of time beyond the 45 day period at the request of either party. *The reviewing officer may also grant a specific extension of time beyond the limit for appeals at the request of either party.* The decision must be in writing and must include a statement of the facts on which it is based.

11. The district shall mail a copy of the findings and decision of the hearing officer, within a reasonable period of time and after deleting any personally identifiable information, to the Governor's Council on Disabilities and Special Education, 3601 C Street, Anchorage, AK 99803. The district shall also mail a copy of the findings and decision to the Department. The district shall provide a written or electronic verbatim record of the hearing to a parent or any party of the hearing upon request.

12. The decision of a hearing officer is final unless a party to the hearing appeals the decision to the Department of Education.

13. Each hearing and each review involving oral arguments must be conducted at a time and place which is reasonably convenient to the parent and child involved.

Child's status during proceedings

(a) During the pendency of any administrative or judicial proceedings regarding a complaint, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement.

(b) If the complaint involves an application of initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

Appeal to the Department of Education

Any party aggrieved by the decision of a hearing officer may appeal by filing a Notice of Appeal with the Department, Office of Special and Supplemental Services, 801 West 10th, Juneau, AK 99801, within 30 days after the decision. The notice of appeal must identify the parties to the hearing, must include a copy of the decision, and must state the grounds for the appeal.

Upon receipt of a notice of appeal the Department will contract with an independent review officer to conduct a hearing review. The review officer will conduct the review, notify all parties of the review, examine the entire hearing record, determine that the findings and decisions at the hearing were consistent with due process, seek additional evidence if necessary, afford the parties an opportunity for written or oral argument and make an independent decision. No SEA employees, chief state school officers or members of the State Board of Education will serve as state-level review officers.

It is the responsibility of the Department to ensure that the Department official who conducts a review of the hearing: examines the entire hearing record, determines that the findings and decision at the hearing were consistent with due process, and makes an independent decision. No SEA employees, chief state school officers or member of the State Board of Education will serve as state level review officers.

The Department will render a final decision and mail a copy to each party, not later than 30 days after receipt of the Notice of Appeal, unless an extension of time is granted by the Department at the request of a party. After rendering a final decision, the Department shall mail a copy of findings and decision of the review officer in writing and will include a statement of the facts on which it is based and make the findings and decision available to the public. The Department shall mail a copy of the decision of the staff member, within a reasonable period of time and after deleting any personally identifiable information to The Governor's Council on Disabilities and Special Education. The Department shall provide a written or electronic verbatim record of the decision to a parent or any party of the hearing upon request.

The decision of the Department is final, unless a party to the appeal appeals to the Federal court in accordance with rule 602 of the Rules of Appellate Procedure. This does not preclude the right of an individual to take civil action as allowed by the law.

Award of Fees

Parents shall be informed that the court, in its discretion, may award reasonable attorneys' fees as part of the cost to the parent or guardian who is the prevailing party 20 U.S.C. § 1415(e)(4) in any action or proceeding brought under 20 U.S.C. & 1415(e).

Table 3 on the following two pages provides a summary of the activities and timelines involved in the mediation - due process - appeal system.

Table 3

DUE PROCESS HEARING CHECKLIST

Activities		Target Date (school days)	Scheduled
Activity One			
a.	Written request for hearing received by district.	Day 1	
b.	Hearing officer notified by district	Day 2	
c.	Notice to parties by hearing officer	Day 5	
Activity Two			
a.	Request for mediation	Day 10	
b.	D.O.E. contact to district to arrange mediation conference	Day 15	
c.	Mediation conference	(by Day 25)	
Activity Three			
a.	Pre-hearing letter or phone call by hearing officer	(by Day 15)	
b.	Pre-hearing conference or statement by hearing officer	(by Day 20)	
Activity Four			
a.	Disclosure of evidence to opposing party	(by Day 25)	
Activity Five			
a.	Written offer of settlement	(by Day 20 or ten days prior to hearing)	
b.	District delivers or mails a notice of the hearing to the parent.	(by day 20 or ten days prior to hearing)	

Activity Six

a.	Initiation of hearing	(by Day 30)

Activity Seven

a.	Receipt of transcript and other documents	(by Day 35)
b.	Issuance of hearing decision to both parties by hearing officer.	(by Day 45)

Activity Eight

a.	District mails copy of hearing decision to: (1) State Director of Special Education (2) Governors Council on Disabilities and Special Education.	(within 5 days of receiving decision)

Activity Nine

a.	Appeal to Department of Education	(within 30 days after decision)

Activity Ten

a.	Appeal to Alaska Superior Court or Federal Court	(within 30 days of appeal notice)

Activity Eleven

a.	Appeal to superior court

Section 3: Surrogate parents

The district shall establish and implement a Surrogate Parent Plan for the identification of children who are entitled to the appointment of a surrogate parent, and for the appointment and removal of surrogate parents. The surrogate parent plan must be available to the Department during compliance monitoring reviews.

The term "parent" means a parent, a guardian, a person acting as a parent, or a surrogate parent but does not include the State if the child is a ward of the State.

> "Guardian" is a private individual who has been given the legal custody of a child by a court.
>
> "Surrogate Parent" is an individual who acts in place of a parent and meets the qualifications for surrogate parents.
>
> "Ward of the State" means that the courts have placed the child under the custody of the Department of Health and Social Services, Division of Family and Youth Services. A child who is a ward of the State shall be provided with a surrogate parent.

A surrogate parent is not liable for civil damages as a result of an act or omission committed in the surrogate parent's official capacity, except that a surrogate parent may be liable for civil damages as a result of gross negligence or intentional misconduct.

Qualifications

An individual is generally qualified to serve as a surrogate parent if the district determines that the individual possesses the necessary knowledge and skills to adequately represent the child, and:

1. Has no personal or professional interests that could conflict with the interests of the child.

2. Is not employed by a public agency which is involved in the education or care of the child. (A person who otherwise qualifies as a surrogate parent is not considered an employee of a district solely because he is paid by the district to serve as a surrogate parent.)

3. Has knowledge and skills that assure adequate representation of the child.

4. In general, is familiar with the State and Federal requirements for special education and with the nature of the child's disability.

5. Has participated in a training program for surrogate parents developed by the Department and conducted by the Department or the district.

Training

A training program for surrogate parents is available on loan from the Department of Education, Office of Special and Supplemental Services. The training program involves an audiotape, a film strip and a pamphlet produced by the National Association of State Directors of Special Education (NASDSE). The program can be obtained by calling or writing the Department.

Even the smallest district should have prospective surrogate parents trained. Then, if a child who is referred for special education needs a surrogate parent, services to the child will not be delayed while a surrogate parent is recruited and trained.

Appointment

A child is entitled to a surrogate parent if the child is between 3 and 18 years old or the child is between 18 and 22 years old and has been adjudicated incapacitated by a court, or if the child is between 18 and 22 years old and the district determines that it is in the best interest of the child to be appointed a surrogate parent even though the child has attained the age of majority, and:

1. The district cannot identify a parent or legal guardian of the child.
2. After reasonable efforts, the district cannot discover the whereabouts of a parent.
3. A parent or legal guardian requests a district to appoint a surrogate parent for the child. The parent who requests that a surrogate be appointed, also has the right to revoke the appointment and the right to continue to receive prior written notice under §300.504.
4. The child is in the custody of the Department of Health and Social Services.

Note: The educational placement of a child who has been identified by the district as entitled to a surrogate parent shall not be changed until 10 days after appointment of a surrogate parent.

Responsibilities

A surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education (FAPE) to the child, including:

1. The right to receive notice of actions proposed or refused by the district.

2. The right to provide or withhold consent requested by the district.

3. The right to participate in the development, review and revision of the I.E.P.

4. All aspects of the protection of the confidentiality of personally identifiable information collected, used or maintained by the district.

5. The conduct of an independent educational evaluation of the child.

6. The initiation and conduct of due process hearings.

Appointment

A child is entitled to a surrogate parent if the child is between 3 and 18 years old or the child is between 18 and 22 years old and has been adjudicated incompetent by a court, or if the child is between 18 and 22 years old and the district determines that it is in the best interest of the child to be appointed a surrogate parent even though the child has attained the age of majority. The method that public agencies will use to determine whether a child needs a surrogate or not is to post the following four questions. If any questions is answered yes, the child will be assigned a surrogate parent:

1. The district cannot identify a parent or legal guardian of the child;

2. After reasonable efforts, the district cannot discover the whereabouts of a parent;

3. The child is in custody of the Department of Health and Social Services; or

4. A parent or legal guardian requests a district to appoint a surrogate parent for the child.

The parent who requests that a surrogate be appointed, also has the right to continue to receive prior written notice under §300.504. Parents must be informed that their request for a surrogate parent appointment is voluntary and may be revoked at any time.

Matching Surrogate Parents and Children

A district should consider the following factors when matching a child with a surrogate parent:

1. cultural similarities;
2. religious similarities;
3. age preferences of surrogate parent or child;
4. language compatibility.

A district should give preference to a member of the child's immediate or extended family, or family friend over a person having no prior involvement with the child.

Compensation

Each district should decide on an incentive or compensation policy for surrogate parents. Some may decide on a total volunteer program; others may decide to reimburse expenses; some may reimburse expenses and pay per diem; others may pay an hourly rate or an annual salary.

Monitoring

Each district is responsible for monitoring each surrogate parent it appoints to ensure that they perform their duties, stay free from conflict of interest, and take no action that might be harmful to the child.

Removal

A district will remove a surrogate parent if:

1. The surrogate parent requests removal.
2. The surrogate parent fails to act with reasonable diligence on behalf of the child.
3. The surrogate parent is not qualified to act as a surrogate parent.
4. The surrogate parent engages in actions which threaten the welfare of the child.
5. The circumstances which gave rise to appointment of the surrogate parent no longer exist.
6. It is determined that the child is no longer in need of special education.

If the decision is to remove a surrogate parent, the reasons for the removal must be presented to the surrogate parent in writing. The district shall provide an opportunity for impartial review of the decision to remove a surrogate parent. The final decision of a district to remove a surrogate parent is not subject to appeal to the Department.

Section 4. Independent evaluations

Right to Independent Educational Evaluation

Parents of a child with a disability have the right to obtain an independent educational evaluation.

- An "Independent Educational Evaluation" means an evaluation conducted by a qualified examiner who is not employed by the district responsible for the education of the child in question.

Availability of Information

The district needs to have information available regarding where an independent educational evaluation may be obtained and provide this information to parents on request.

Right to an Independent Educational Evaluation at Public Expense

A parent has the right to an independent educational evaluation at district expense if the parent disagrees with an evaluation obtained by the district. The district may initiate a hearing to show that its evaluation is appropriate. If the final decision is that the district evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at district expense.

Parent Initiated Evaluations

If the parent obtains an independent educational evaluation, regardless of whether at parent or district expense, and makes that evaluation available to the district, the results of the evaluation:

(1) Must be considered by the district in any decision made with respect to the provision of a free appropriate public education to the child, and

(2) May be presented as evidence at a hearing regarding that child.

Requests for Evaluations by Hearing Officers

If a hearing officer requests an independent educational evaluation as part of a hearing, the evaluation must be at district expense.

District Criteria for Evaluations

Whenever an independent evaluation is at district expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as those the district uses when it initiates an evaluation.

Section 5. Complaint procedure

The Department will review, investigate, and take appropriate action on complaints alleging that a district or other educational agency is acting contrary to state or federal requirements for special education.

Complaints, which can be given orally or in writing by any person, should be made to the staff of the Office of Special and Supplemental Services, and should include at least the following information:

1. Date;
2. Name of District;
3. Name, address and telephone number of the person making the complaint;
4. Name, address and telephone number of the child or children involved;
5. A summary of the complaint.

Within 60 days of receiving the complaint the Department will complete an investigation which if necessary will include an on-site investigation. If corrective action is required of the district, the Department will ensure that the district takes whatever action is necessary. A report will be filed with the Administrator of the Office of Special and Supplemental Services which will include:

1. A summary of the complaint;
2. A summary of the investigation;
3. A statement of the outcome.

An extension of the time limit will be allowed only if exceptional circumstances exist and are documented by the Department. The person making the complaint as well as the public agency have the right to request the Secretary of the U.S. Department of Education to review the final decision of the state.

Section 6. Confidentiality of information

Protection of Records

A district shall designate one employee to protect the confidentiality of special education child records collected, maintained or used under this part. That person shall assume responsibility for ensuring the confidentiality of any personally identifiable information, and shall:

1. Respond to any request for inspection and review of an education record.
2. Respond to any request made for an explanation or interpretation of an education record.
3. Respond to any request made to amend an education record.
4. Respond to any request to disclose or release personally identifiable information.

5. Respond to any request made to destroy an education record.

6. Keep a record of parties obtaining access to education records (except access by parents and authorized employees of the district), including the name of the party, agency affiliation, the date access took place, and the purpose of the authorized use.

7. Maintain a current listing for public inspection of the names and positions of the employees who may have access to personally identifiable information.

8. Provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the district.

9. Ensure that the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages is protected.

10. Ensure that if any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

11. Ensure that each person collecting or using personally identifiable information shall receive training or instruction regarding the policies and procedures governing confidentiality of personally identifiable information. The district must maintain a record of the training provided, including the person or persons providing the training, the dates of the training, who attended, and the subjects covered.

Parental Access to Records

A district shall permit a parent to inspect and review any record relating to his child which is collected, maintained or used by the district, and shall:

1. Provide a parent, upon request, a list of types and locations of records collected or maintained by the district.
2. Respond to any reasonable request of a parent for explanation and interpretation of a record.
3. Provide a parent with a copy of a record upon request if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records.
4. Permit a representative of the parent to inspect and review a record.
5. Comply with a request to inspect, review, or obtain a copy of a record within a reasonable period not to exceed 10 days, and, in any case, before the parent is to participate in any meeting or hearing relating to the child or his or her identification, evaluation, placement, or program.

A district may presume that a parent has authority to inspect and review a record relating to his child unless the district has been provided reasonable grounds to believe that the parent does not have authority to do so under state law governing such matters as guardianship, separation or divorce.

Destruction of Information

If personally identifiable information collected, maintained or used is no longer needed by the district, that information should be destroyed. The district shall make reasonable efforts to notify the parent and offer the parent a copy of the record. A reasonable effort would be written correspondence to the last known address of the parent.

The notice sent to the parents shall describe the personally identifiable information which the district intends to destroy and shall inform the parents that the information will be destroyed no earlier than 30 days from the date of the notice. The notice shall also outline the procedure which the parents may follow if they wish to formally object to the destruction of the information.

Information must be destroyed at the request of the parents if the information is no longer needed by the district. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Written records about individual students are confidential and should be shredded or burned under supervision of the staff member responsible for the records.

Parental Request for Amendment of Records

A parent who believes that information collected, maintained, or used by a district in a record relating to his or her child is inaccurate, misleading, or in violation of the privacy or other rights of the child may request that the district amend the records.

The district shall, within a reasonable period of time, not to exceed 45 days of receipt of the request, decide whether to amend the record. If the district refuses to amend the record, it shall inform the parent of the refusal and advise the parent of his or her right to a hearing.

If a parent requests a hearing and the hearing officer decides that the information is inaccurate, misleading, or in violation of the privacy or other rights of the child, the district shall amend the record and inform the parent in writing.

If a parent requests a hearing and the hearing officer decides that the information is not inaccurate, misleading, or in violation of rights of the child, the district shall inform the parent that he or she may place with the record a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency. Any statement placed with a record must accompany the record as long as the record or contested portion is maintained by the district. If the record or contested portion is disclosed by the district to any person, the statement must also be disclosed.

Fees

A fee may be charged for copies of records which are made for parents if the fee does not prevent the parents from exercising their right to inspect and review those records.

A fee may not be charged to search for or retrieve information.

Parental Consent for Release of Records

A district shall obtain written consent of a parent before disclosing personally identifiable information relating to his or her child, which is collected, maintained, or used by the district, to any person other than:

1. A school employee who has a legitimate educational interest.
2. Employees of a school in which the student is to enroll, upon condition that the parent be notified of the disclosure, offered a copy of the record, and notified of his or her right to request amendment of the record.
3. A representative of the federal comptroller general, United States Department of Education, or Alaska Department of Education.

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under this part.

An educational agency or institution subject to Part 99 of this title may not release information from education records to participating agencies without parental consent unless authorized to do so under Part 99 of this title.

If a parent refuses to consent to release of a record, the district may initiate a hearing.

III. PROCEDURAL PROTECTIONS GIVEN BY ALASKA STATUTE

Sec. 14.30.272
Procedural safeguards

(a) A school district shall inform the parent of an exceptional child of the right to review the child's educational record, to review evaluation tests and procedures, to refuse to permit evaluation or a change in the child's educational placement, to be informed of the results of evaluation, to obtain an independent evaluation by choosing a person from a list provided by the district or by choosing a person by agreement between the parent and school district, to request an impartial hearing, to appeal a hearing officer's decision and to give consent or deny access to others to the child's educational record.

(b) The department shall establish, by regulation, impartial procedures for a school district to follow for hearings under AS 14.30.193 to comply with requirements necessary to participate in federal grant-in-aid programs, including 20 USC 1400-1485 (Individuals with Disabilities Education Act).

Sec. 14.30.191
Educational evaluation and placement

(a) *A school district shall obtain the consent of the child' s parent before an initial evaluation or placement in a program of special education and related services.*

(b) *After initial placement in a program of special education and related services and not less than once every three years for as long as the child is assigned to the program, an exceptional child shall receive an educational evaluation for the identification and classification of exceptional children*

c) *Before a school district initiates or refuses a change in a child's placement or program, the district shall notify provide the child's parent.*

(d) *Upon completion of the evaluation and before placement, the school district shall provide to the parent of each exceptional child an opportunity for consultation about the evaluation. A consultation must be available after each reevaluation of the condition and placement of the exceptional child.*

(e) *A parent may obtain an independent educational evaluation by choosing a person from a list provided by the district or by choosing a person by agreement between the parent and the school district, at the expense of the school district if the parent disagrees with an evaluation obtained by the school district. The school district may initiate a hearing to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district may not be required to pay for the independent educational evaluation.*

(f) *If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:*

(1) *must be considered by the school district in a decision made with respect to the provision of an appropriate public education to the child;*

(2) *may be presented as evidence at a hearing regarding the child.*

(g) *If a hearing officer requests an independent educational evaluation as part of a hearing, the school district shall pay for the evaluation.*

Sec. 14.30.195
Hearings

(a) *The department shall, by regulation, provide for administrative appeal hearings based on the record, or impartial hearing officers' decisions under AS 14.30.193. An administrative appeal hearing shall comply with all requirements necessary for participation in federal grant-in-aid programs, including 20 USC 1400-1485 (Individuals with Disabilities Education Act).*

(b) *The agency conducting a hearing under this section may issue subpoenas under AS 44.62.430 and may petition the superior court for adjudications of contempt under AS 44.62.590.*

(c) *After an appeal hearing under this section, the department shall render its decision affirming, reversing, modifying, or remanding the hearing officer's decision under AS 14.30.193.*

(d) *A parent or the school district may appeal to the appropriate court for review of the department's decision on appeal under (c) of this section.*

(e) *A parent who appeals to the court and who is determined by the court to be an indigent person may be provided with a court appointed attorney at public expense. In this subsection, "indigent person" has the meaning given in AS 18.85.170.*

Sec. 14.30.325
Surrogate parents

(a) *The department may by regulation provide for the appointment of surrogate parents to represent exceptional children in matters relating to the provision of an appropriate public education.*

(b) *A surrogate parent is not liable for civil damages as a result of an act of omission committed in the surrogate parents official capacity, except that a surrogate parent may be liable for civil damages as a result of gross negligence or intentional misconduct.*

Sec. 47.80.020
Protection and advocacy of rights

The department shall establish a system to protect and advocate rights of persons with handicaps. The system:

(1) *has the authority to pursue legal, administrative, and other appropriate remedies to assure the protection of the rights of persons with handicaps; and*

2) *shall be independent of any state agency which provides treatment, services, or habilitation of persons with handicaps*

IV. PROCEDURAL PROTECTIONS GIVEN BY REGULATIONS

4 AAC 52.190
Written notice to parent

(a) Each district shall provide written notice to a parent

(1) a reasonable time before it initiates or changes the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education to a child under this chapter; and

(2) when it refuses a parental request to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education to a child under this chapter.

(b) The notice required by (a) of this section must include

(1) a full explanation of procedural safeguards available to the parent under this chapter, including those in 4 AAC 52.580;

(2) a description of the action proposed or refused by the district, along with an explanation of why the district proposes or refuses to take the action, a description of any alternatives considered by the district, and a statement of the reasons why those alternatives were rejected;

(3) a description of each evaluation procedure, test, record, or report the district relied on as a basis for the proposal or refusal; and

(4) a description of any other factors which are relevant to the action proposed or refused by the district.

(c) The notice must be written in language understandable to the general public and, in addition, provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(d) If the native language or other mode of communication of the parent is not a written language, the district shall take reasonable steps to assure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication, and shall assure that the parent understands the content of the notice.

4 AAC 52.200
Parental consent

(a) Consent of a parent must be obtained before

(1) conducting an initial evaluation under 4 AAC 52.120; or

(2) initial placement of a child in a program providing special education or related services.

(b) Except as set out in (a) of this section, parental consent may not be required as a condition of any benefit to a parent or child.

(c) Except as provided in 4 AAC 52.160, the district may initiate appropriate proceedings under AS 14.30.340 if a parent refuses consent to enrollment in a program of special education or related services.

(d) For the purposes of this section, "consent" means that (l) the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought; (2) the parent understands and agrees in writing to the carrying out of the activity for which his consent is sought and the consent describes that activity and lists any records that will be released and to whom, and the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

4 AAC 52.210
Parental participation

(a) Each district shall take steps to insure that a parent is at the meeting required under 4 AAC 52.140 or has an opportunity to participate, including scheduling the meeting at a mutually agreed upon time and place and providing the parent with written or oral notice of the meeting sufficiently in advance to insure that he will have an opportunity to attend. The notice must state the purpose, time and place of the meeting, who will attend, and the right of the parent to bring someone with them to the meeting. If the purpose of the meeting is the consideration of transition services for the student, the notice must state that the district will invite the student to the meeting, and identify any other agency that will be invited to send a representative. The district shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf and desire an interpreter or whose native language is not English.

(b) If neither parent is able to attend, the district shall use other methods to insure parental participation, including, but not limited to, individual or conference telephone calls or home visits.

(c) A meeting may be conducted without a parent in attendance if the district is unable to convince a parent that he should attend, in which case the district shall maintain a record of its attempts to arrange a mutually agreed on time and place.

(d) The district shall provide a copy of the IEP to the parent.

4 AAC 52.110
Referral

Each district shall establish and implement written procedures for receiving referrals for evaluation of children ages 3 - 21 who are suspected of being exceptional children. The school district shall inform parents, interested agencies, and school personnel of the referral procedures.

4 AAC 52.540
Parental right to independent evaluation

(a) Each district shall provide to a parent, upon request, information concerning where an independent educational evaluation may be obtained.

(b) The results of an independent educational evaluation must be considered by the district in any decision made concerning the provision of a free appropriate public education to the child.

(c) The district shall pay for the independent educational evaluation. However, the district may initiate a hearing under 4 AAC 52.550 to show that its evaluation is appropriate. If the hearing officer decides that the evaluation of the district is appropriate, the independent educational evaluation must be paid for by the parent. If a hearing officer requests an independent educational evaluation as part of a hearing, the district shall pay for the evaluation.

4 AAC 52.550
Availability of hearing

(a) Unless otherwise limited by law, a parent may initiate a hearing by filing with the district a written request for a hearing to challenge.

    (1) an action or refusal to initiate or change the identification, evaluation, or educational placement of a child, or the provision of free appropriate public education to the child; or

(2) a refusal to honor the request of a parent to amend a record under 4 AAC 52.520.

(b) A district may initiate a hearing by sending to the parent written notice of the district's intent to appoint a hearing officer to conduct a hearing to challenge district payment for an independent educational evaluation under 4 AAC 52.540 and to show that its own evaluation is appropriate.

(c) A hearing must be conducted, by a hearing officer appointed by the district from a list of hearing officers provided by the department, at a time and place determined by the district that is reasonably convenient to the parent and the child involved.

(d) The district shall deliver or mail a notice of the hearing to the parent at last 10 days before the hearing. The notice must be worded substantially as follows:

You are notified that a hearing will be held before (insert name of hearing officer) at (insert place of hearing) upon the ________________ day of ___________, 19____ at the hour of __________, in response to the request of __________________________ for a hearing on the following issue: ____
You may be represented by counsel, may present any relevant evidence, and may cross-examine any witnesses testifying against you.

(e) In the notice provided under (d) of this section, the public agency shall inform the parent of any free or low-cost legal and other relevant services available in the area if
(1) the parent requests the information
(2) the parent or agency initiates a hearing under this section.

(f) The hearing must be recorded and must be conducted according to the following rules:

(1) each party has the right to [MAY] ask the hearing officer be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities or of the child about whom the hearing was filed;

(2) oral evidence may be taken only on oath or affirmation;

(3) each party may compel the attendance of witnesses, call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on matters relevant to the issues even though those matters were not covered in the direct examination, impeach a witness regardless of which party first called the witness to testify, and rebut the evidence against him;

(4) the hearing need not be conducted according to technical rules relating to evidence and witnesses; however, relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a court rule which makes improper the admission of the evidence over objection in a civil action; hearsay evidence may be used to supplement or explain direct evidence but is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action; the rules of privilege are effective to the same extent that they are recognized in a civil action; irrelevant and unduly repetitious evidence may be excluded;

(5) each party shall disclose any evidence to be offered at a hearing for other than rebuttal purposes at least five days before the hearing;

(6) each party has the right to [THE HEARING OFFICER SHALL] prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing [UNLESS GOOD CAUSE IS SHOWN FOR CIRCUMSTANCES OUTSIDE OF THE CONTROL OF THE PARTY ATTEMPTING TO INTRODUCE THE EVIDENCE];

(7) an employee of the district may be called as a witness by any party;

(8) a parent may have his or her child present and may open the hearing to the public; and

(9) the burden of proof is not on either party; the burden of persuasion is by a preponderance of the evidence.

(g) The hearing officer shall render a final decision and mail a copy to each party not later than 45 days after receipt of a parent's request for a hearing or 45 days after a district sends a written notice under (b) of this section. A hearing or reviewing officer may grant specific extensions of time beyond the 45 day period. The hearing or reviewing officer shall enter the reasons for extensions of time into the written record of the airing. The final decision must be in writing and must include a statement of the facts on which it is based.

(h) The district shall mail a copy of the decision of the hearing officer, within a reasonable period of time and after deleting any personally identifiable information, to the department and to the advisory panel established under 4 AAC 52.030. The Governor's Council on Disabilities and Special Education. The district shall provide a written or electronic verbatim record of the hearing to a parent or any party to the hearing upon request.

(i) The decision of a hearing officer is final unless a party to the hearing appeals the decision to the department under 4 AAC 52.570.

4 AAC 52.560
Impartial hearing officer

(a) A hearing officer must

(1) have no personal or professional interests which could affect his objectivity in a hearing;

(2) not be employed by a public agency which is involved in the education or care of the child;

(3) have participated in a training program for hearing officers developed by the department and conducted by the department or the district; and

(4) be at least 18 years of age.

(b) A person who otherwise qualifies to conduct a hearing under (a) of this section is not considered an employee of a public agency solely because he is paid by the district to serve as a hearing officer.

(c) A hearing officer shall voluntarily disqualify himself and withdraw from a hearing in which he cannot conduct a fair and impartial hearing. A party may request the disqualification of a hearing officer by filing with the hearing officer an affidavit, before the taking of evidence at a hearing, which states the grounds for his or her belief that the hearing officer cannot conduct a fair and impartial hearing. The issue will be determined by the hearing officer.

(d) The department will keep a list of persons available to serve as hearing officials. This list shall include a statement of the qualifications of each of these persons.

4 AAC 52.570
Appeal to department

(a) Any party aggrieved by the decision of a hearing officer may appeal to the department by filing a notice of appeal with the Department of Education, Office for Special Services, 801 W. 10th St., Suite 200, Juneau, Alaska 99801, within 30 days after the decision. An appeal may not be taken from a refusal to amend a record under 4 AAC 52.520.

(b) The notice of appeal must identify the parties to the hearing, must include a copy of the decision, and must state the grounds for the appeal.

(c) Upon receipt of a notice of appeal the department will notify any other parties of the pendency of the appeal, will request a written or electronic record of the hearing conducted under 4 AAC 52.550, and will appoint a state official to conduct an impartial review of the hearing and render a decision on the appeal on behalf of the department.

(d) The official conducting the review on behalf of the department shall
(1) examine the entire hearing record
(2) ensure that the procedures at the hearing were consistent with the requirements of due process
(3) seek additional evidence, if necessary; if a hearing is held to receive additional evidence, the rights stated in 4 AAC 52.550(f) apply; appointment of a hearing officer, if any, is subject to 4 AAC 52.560;
(4) afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; and
(5) make an independent written decision, stating the facts on which it is based, on completion of the review.

(e) The department will mail a copy of its independent, written decision to each party no later than 30 days after the receipt of the notice of appeal, unless an extension of time is granted by the department at the request of a party.

(f) The decision of the department is final, unless a party to the appeal appeals to state superior court in accordance with Rule 602 of the Alaska Rules Appellate Procedure.

4 AAC 52.580
Placement of child during proceedings

(a) During the pendency of an administrative or judicial proceeding concerning the identification, evaluation, or educational placement of a child, unless the parties agree otherwise, the child shall remain in the educational placement which preceded the administrative or judicial proceeding.

(b) Notwithstanding (a) of this section, if the proceedings concerning an application for initial admission to school, the child must, with the consent of a parent, be admitted to school until completion of all proceedings.

4 AAC 52.590
Appointment of surrogate parent

(a) Each district shall, establish and implement written procedures for the identification of children who are entitled to the appointment of a surrogate parent, and for the appointment and removal of surrogate parents.

(b) A child is entitled to a surrogate parent if

(1) the district cannot identify a parent or legal guardian of the child;

(2) the district, exercising reasonable diligence cannot locate at least one person acting as a parent or legal guardian of the child;

(3) the district locates one or more persons acting as a parent or legal guardian of the child, but each person affirmatively disclaims responsibility for the child's educational program and relinquishes it in writing to a surrogate parent; or

(4) the child is committed to the custody of the Department of Health and Social Services under AS 47.10.080.

(c) For each child entitled to a surrogate parent, the district in which the child resides shall, on a form provided by the department, appoint a person meeting the qualifications set out in 4 AAC 52.600 for a surrogate parent.

(d) In appointing a surrogate parent under (c) of this section, a district shall give preference to a member of the child's immediate or extended family, or family friend over a person having no prior involvement with the child.

(e) Repealed __/__/__. (Eff 7/1/83, Register 86; am __/__/__, Register ___)

(f) The educational placement of a child who has been identified by the district as entitled to a surrogate parent may not be changed until 10 days after appointment of a surrogate parent.

4 AAC 52.600
Qualifications and duties of a surrogate parent

(a) A surrogate parent must

(1) have no personal or professional interests that could conflict with the interests of the child;

(2) not be employed by a public agency which is involved in the education or care of the child;

(3) have knowledge and skills that assure adequate representation of the child; and

(4) have participated in a training program for surrogate parents developed by the department and conducted by the department or the district.

(b) A person who otherwise qualifies as a surrogate parent is not an employee of a public agency solely because he is paid by the district to serve as a surrogate parent.

(c) A surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to the child.

4 AAC 52.610
Removal of a surrogate parent

(a) The procedures established under 4 AAC 52.590 must provide that a surrogate parent will be removed by the district if

(1) the surrogate parent requests removal;

(2) the surrogate parent fails to act with reasonable diligence on behalf of the child;

(3) the surrogate parent is not qualified to act as a surrogate parent under 4 AAC 52.600;

(4) the surrogate parent engages in actions which threaten the welfare of the child; or

(5) the circumstances which gave rise to appointment of the surrogate parent no longer exist.

(b) The district shall provide an opportunity for impartial review of a decision to remove a surrogate parent. The final decision of a district to remove a surrogate parent is not subject to appeal to the department.

4 AAC 52.620.
Rights upon reaching age of majority

Any rights afforded a parent under this chapter accrue to the child upon reaching 18 years of age, unless otherwise provided by a court of competent jurisdiction.

4 AAC 52.500
Complaint procedure

(a) The department will review, investigate, give the complainant the opportunity to submit additional information, take appropriate action, and issue a written decision that addresses each allegation in the complaint and contains findings of fact and conclusions, to the complainant, within 60 days, on complaints alleging that a district or other public agency is acting contrary to the requirements of this chapter or Part B of Individuals with Disabilities Education Act.

(b) An organization or an individual may file a written and signed complaint under this section with the Department of Education, Office of Special Services, 801 W. 10th St., Suite 200, Juneau, Alaska 99801. If the complainant's native language or other mode of communication is not a written language, the complainant may file the complaint by proxy.

CHAPTER VI
CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION

I. GENERAL REQUIREMENTS

1. The department shall provide notice to parents about the requirements related to the identification, location, and evaluation of children with disabilities identifying the extent to which notification is available in the native languages of the regions or localities of the state, which include:

   (a) notification in the native language of the regions or localities in the state;

   (b) a description of children on whom personally identifiable information is maintained;

   (c) the types of information sought;

   (d) the methods the State uses in gathering the information, including sources from whom information is gathered;

   (e) uses made of the information;

   (f) a summary of policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, and retention and destruction of personally identifiable information;

   (g) a description of all the rights of parents and children regarding the information gathered; under 438 of the GEPA and part 99 of this title.

2. The Department shall, before any major identification, location or evaluation activity, provide a notice (as per 1 above) through public media with circulation adequate to notify parents throughout the state of the activity;

3. The Department and local school districts shall afford parents an opportunity to review all records related to the identification evaluation, and placement of a child and of the provision of FAPE;

4. The Department and local school districts may charge a fee for copies of records if the fee does not effectively prevent the parents from exercising their rights to inspect and review the records, but may not charge a fee for the search or retrieval of such information or records.

5. The Department through its compliance monitoring system will insure that confidentiality of information policies and procedures are followed and that the requirements of the Act and the regulations in this part are met. If through the monitoring process or the complaint procedures an agency is found in noncompliance, a corrective action plan will be required. The Department will make technical assistance available to the agency as part of the corrective action plan. If the agency doesn't complete the corrective action plan then sanctions such as withholding federal funds will be applied until the corrective action plan is completed and the agency found to be in full compliance.

II. PROCEDURES THAT ASSURE CONFIDENTIALITY

Protection of Records

A district shall designate one employee to protect the confidentiality of special education child records collected, maintained, or used under this part. That person shall assume responsibility for ensuring the confidentiality of any personally identifiable information, and shall:

1. Respond to any request for inspection and review of an education record.

2. Respond to any request made for an explanation or interpretation of an education record.

3. Respond to any request made to amend an education record.

4. Respond to any request to disclose or release personally identifiable information.

5. Respond to any request made to destroy an education record.

6. Keep a record of parties obtaining access to education records (except access by parents and authorized employees of the district), including the name of the party, agency affiliation, the date access took place, and the purpose of the authorized use.

7. Maintain a current listing for public inspection of the names and positions of the employees who may have access to personally identifiable information.

8. Provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the district.

9. Ensure that the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages is protected.

10. Ensure that if any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

11. Ensure that each person collecting or using personally identifiable information shall receive training or instruction regarding the policies and procedures governing confidentiality of personally identifiable information. The district must maintain a record of the training provided, including the person or persons providing the training, the dates of the training, who attended, and the subjects covered.

Parental Access to Records

A district shall permit a parent to inspect and review any record relating to his child which is collected, maintained or used by the district, and shall:

1. Provide a parent, upon request, a list of types and locations of records collected or maintained by the district.
2. Respond to any reasonable request of a parent for explanation and interpretation of a record.
3. Provide a parent with a copy of a record upon request if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records.
4. Permit a representative of the parent to inspect and review a records.
5. Comply with a request to inspect, review, or obtain a copy of a record within a reasonable period not to exceed 10 days, and, in any case, before the parent is to participate in any meeting or hearing relating to the child or his or her identification, evaluation, placement, or program.

A district may presume that a parent has authority to inspect and review a record relating to his child unless the district has been provided reasonable grounds to believe that the parent does not have authority to do so under state law governing such matters as guardianship, separation or divorce.

Under the regulations for the Family Educational Rights and Privacy Act (45 CFR 99.44(a)), the rights of parents regarding education records are transferred to the student at age 18.

Destruction of Information

If personally identifiable information collected maintained or used is no longer needed by the district, that information should be destroyed. The district shall make reasonable efforts to notify the parent and offer the parent a copy of the record. A reasonable effort would be written correspondence to the last known address of the parent.

The notice sent to the parents shall describe the personally identifiable information which the district intends to destroy and shall inform the parents that the information will be destroyed no earlier than 30 days from the date of the notice. The notice shall also outline the procedure which the parents may follow if they wish to formally object to the destruction of the information.

Information must be destroyed at the request of the parents if the information is no longer needed by the district. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Written records about individual students are confidential and should be shredded or burned under supervision of the staff member responsible for the records.

Parental Request for Amendment of Records

A parent who believes that information collected, maintained, or used by a district in a record relating to his or her child is inaccurate, misleading, or in violation of the privacy or other rights of the child may request that the district amend the records.

The district shall, within a reasonable period of time, not to exceed 45 days of receipt of the request, decide whether to amend the record. If the district refuses to amend the record, it shall inform the parent of the refusal and advise the parent of his or her right to a hearing.

If a parent requests a hearing and the hearing officer decides that the information is inaccurate, misleading, or in violation of the privacy or other rights of the child, the district shall amend the record and inform the parent in writing.

If a parent requests a hearing and the hearing officer decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child, the district shall inform the parent that he or she may place with the record a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency. Any statement placed with a record must accompany the record as long as the record or contested portion is maintained by the district. If the record or contested portion is disclosed by the district to any person, the statement must also be disclosed.

In accordance with procedures under 300.568, due process hearings must be conducted according to procedures under 34 CFR 99.22.

Fees

A fee may be charged for copies of records which are made for parents if the fee does not prevent the parents from exercising their right to inspect and review those records.

A fee may not be charged to search for or retrieve information.

Parental Consent for Release of Records

A district shall obtain written consent of a parent before disclosing personally identifiable information relating to his or her child, which is collected, maintained, or used by the district, to any person other than:

1. A school employee who has a legitimate educational interest.
2. Employees of a school in which the student is to enroll, upon condition that the parent be notified of the disclosure, offered a copy of the record, and notified of his or her right to request amendment of the record.
3. A representative of the federal comptroller general, United States Department of Education, or Alaska Department of Education.

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting requirement under this part.

An educational agency or institution subject to Part 99 of this title may not release information from education records to participating agencies without parental consent unless authorized to do so under Part 99 of this title.

If a parent refuses to consent to release of a record, the district may initiate a hearing.

Children's Rights

When a student reaches the age of 18 or is attending a post-secondary education institution, the rights of parents regarding special education records are also afforded to the student, taking into account the type or severity of the student's disability.

Enforcement

The Alaska Special Education Handbook includes complaint procedures which address confidentiality. District's either adopt the state handbook, or write their own which must include such procedures. During compliance monitoring, the State Education Agency reviews steps that districts have taken to ensure that confidentiality policies and procedures have been implemented.

III. STATUTES THAT ASSURE CONFIDENTIALITY.

Sec. 09.25.120.
Inspection and copying of public records.

Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except

(a) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50;
(b) records pertaining to juveniles;
(c) medical and related public health records;
(d) records required to be kept confidential by a federal law or regulation or by state law.

Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recorders shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plans; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recorders and their employees.

IV. REGULATIONS THAT ASSURE CONFIDENTIALITY.

4 AAC 07.060.
Student records.

(a) Each district shall maintain for each student a cumulative record consisting, at a minimum, of the following:

- (1) subjects student has taken;
- (2) grades earned and an explanation of the grading system used;
- (3) units of credit earned;
- (4) attendance records;
- (5) scores student has recorded on standard tests taken; and
- (6) records of required immunizations and physical examinations and other health-related matters required by state law or district policy or by laws.

(b) All district policies and practices with respect to student records must conform to current and appropriate state and federal laws and regulations.

4 AAC 52.220.
Protection of records.

(a) Each district shall protect the confidentiality of personally identifiable information contained in records collected, maintained, or used by the district under this chapter.

(b) Each district shall assign to a single employee the duty to protect the confidentiality of personally identifiable information contained in records collected, maintained, or used by the district under this chapter.

(c) Each district shall provide each employee who collects, maintains, or uses personally identifiable information with instruction regarding the obligations of the district under this section.

(d) If a record containing personally identifiable information is not needed by the district to comply with this chapter, the district shall make reasonable efforts to notify the parent and offer the parent a copy of the record. The district shall destroy the record upon request of the parent. A record of the child's name, address, telephone number, grades, attendance record, classes attended, grade level completed, and year completed must be maintained indefinitely.

(e) Each district shall maintain, for public inspection, a current list of the names and positions of employees within the district who have access to personally identifiable information contained in records collected, maintained, or used by the district under this chapter. The list must identify the person responsible under (b) of this section.

(f) Each district shall maintain a record of persons other than parents and persons listed under (e) of this section who are provided access to records which are subject to this section, including the name of the person, agency affiliation, date of access, and the purpose for which access is provided.

4 AAC 52.580.
Placement of child during proceedings.

(a) During the pendency of an administrative or judicial proceeding concerning the identification, evaluation, or educational placement of a child, unless the parties agree otherwise, the child shall remain in the educational placement which preceded the administrative or judicial proceeding.

(b) Notwithstanding (a) of this section, if the proceedings concern an application for initial admission to school, the child must, with the consent of a parent, be admitted to school until completion of all proceedings.

4 AAC 52.500.
Complaint procedure.

(a) The department shall review, investigate, give the complainant the opportunity to submit additional information, take appropriate action, and issue a written decision that addresses each allegation in the complaint and contains findings of fact and conclusions, to the complainant, within 60 days, on complaints alleging that a district or other public agency is acting contrary to the requirements of this chapter or Part B of Individuals with Disabilities Education Act.

(b) An organization or an individual may file a written and signed complaint under this section with the Department of Education, Office of Special Services, 801 W. 10th St., Suite 200, Juneau, Alaska 99801. If the complainant's native language or other mode of communication is not a written language, the complainant may file the complaint by proxy.

4 AAC 52.510.
Parental access to records.

(a) Except as provided in (c) of this section, each district shall permit a parent to inspect and review any record relating to his child which is collected, maintained, or used by the district under this chapter.

(b) A district shall
   (1) provide a parent, upon request, a list of types and locations of records collected, maintained, or used by the district;
   (2) respond to any reasonable request of a parent for explanation and interpretation of a record;
   (3) provide a parent with a copy of a record upon request;
   (4) permit a representative of the parent to inspect and review a record; and
   (5) comply with a request to inspect, review, or obtain a copy of a record within a reasonable period not to exceed 10 days and, in any case, before any meeting or hearing relating to the identification, evaluation, placement, or program of a child in which the parent may participate.

(c) A district may presume that a parent has authority to inspect and review a record relating to his child unless the district has been provided reasonable grounds to believe that the parent does not have authority to do so under state law governing such matters as guardianship, dissolution or divorce. Under the regulations for the Family Educational Rights and Privacy Act (20 USC 1232 (g)), the rights of parents regarding education records are transferred to the student at age 18, unless otherwise provided by a court of competent jurisdiction.

(d) If a record includes information on more than one child, a parent may inspect and review the information relating only to his child.

4 AAC 52.520.
Parental request for amendment of records.

(a) A parent who believes that information in a record relating to his or her child which is collected, maintained, or used by a district under this chapter is inaccurate, misleading, or otherwise in violation of **the privacy or other** rights of the child may request that the district amend the record.

(b) The district shall, within a reasonable period of time following receipt of the request, decide whether to amend the record. If the district refuses to amend the record, it shall inform the parent of the refusal and advise the parent of his or her right to a hearing under 4 AAC 52.550.

(c) If a parent requests a hearing and the hearing officer decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, the district shall amend the record and inform the parent in writing.

(d) If a parent requests a hearing and the hearing officer decides that the information is not inaccurate, misleading, or otherwise in violation of rights of the child, the district shall inform the parent that he or she may place with the record a statement commenting on the information, or setting forth any reason for disagreeing with the decision of the agency, which must be accompanied by a copy of the decision of the hearing officer.

(e) Any statement placed with a record under (d) of this section must accompany the record as long as the record or contested portion is maintained by the district. If the record or contested portion is disclosed by the district to any person, the statement must also be disclosed.

4 AAC 52.530.
Parental consent for release of records.

(a) Each district shall obtain written consent of a parent before disclosing personally identifiable information relating to his or her child, which is collected, maintained, or used by the district under this chapter, to any person other than

(1) a school official, including a teacher, who has a legitimate educational interest;
(2) an official of a school or school system in which the student intends to enroll, upon condition that a parent be notified of the disclosure, offered a copy of the record, and notified of his or her right to request amendment of the record under 4 AAC 52.520; and
(3) a representative of the federal comptroller general, United States Department of Education, or Alaska Department of Education.

(b) If a parent refuses to consent to release of a record, the district may initiate a hearing under 4 AAC 52.550.

V. CONFIDENTIALITY OF INFORMATION DEFINITIONS

As used in this subpart:

(a) "Destruction" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

(b) "Education records" means the type of records covered under the definition of "education records" in Part 99 of this title (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

(c) "Participating agency" means an agency or institution which collects, maintains, or uses personally identifiable information, or from which information is obtained, under this part.

Note: When a parent refuses to provide a required consent, the following procedures may be followed by the district:

a. The district should request, in writing, that the parents or guardians meet with the district staff to discuss the need for release of special education records. The district will attempt to obtain the parental consent at that meeting.

b. If the parents or guardians still refuse to give consent for the release of special education records, the district may initiate a due process hearing.

CHAPTER VII
LEAST RESTRICTIVE ENVIRONMENT

I. GENERAL STATEMENT

State Statutes and regulations require that each school district ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who do not have disabilities. Specific procedures for ensuring that children with disabilities are being educated in the LRE appear in the Alaska Special Education Handbook. The State Department of Education regularly monitors every public education agency to ensure effective implementation of these procedures. Technical assistance is provided to districts to assist them in implementing programs in the LRE. The Special Education Service Agency and the Alaska Youth Initiative will continue to provide technical assistance to rural districts in providing services to their low incidence populations.

Public and private institutions providing special education and related services which are not school districts are also required to abide by the requirements of this Chapter. The Alaska Department of Education will make arrangements with such public and private institutions through a memorandum of agreement or other special implementation procedure as needed, to ensure that the requirements of this Chapter are effectively implemented.

II. PROCEDURES FOR ENSURING EDUCATION IN THE LRE

The overriding rule is that placement must be made on an individual basis.

Section 1. Responsibility for placement

The placement decision must be made by the I.E.P. Team. The I.E.P. team must consider all aspects of this Part in considering the placement decision. The team must include persons knowledgeable about:

1. the child;
2. the meaning of the evaluation data; and
3. the placement options.

If there is disagreement between the parents and the district over the placement decision and a hearing is initiated by the parents, the child must "stay put" unless a temporary placement is agreed upon by the district and the parents.

Section 2. General placement procedures

1. **Placement based on I.E.P.**: The placement decision must be based on the I.E.P. of the child.

2. **Placement decision after I.E.P.**: The placement decision must be made after the completion of the I.E.P.

3. **Placement decision made by group**: The placement decision must be made by the I.E.P. Team and must consider the continuum of placement options. The placement decision must be made by the IEP team, which, when interpreting evaluation data and making placement decisions, must consider the continuum of placement options.

4. **Draw upon variety of sources**: In making the placement decision the I.E.P. Team must draw upon documented information from a variety of sources including achievement data, teacher recommendations, social/adaptive behavior, social or cultural background and physical condition.

5. **Consideration of harmful effects**: In selecting the placement, consideration must be given to any potential harmful effect on the child or on the quality of services.

6. **Removal only when documented unsatisfactory achievement**: Special classes, separate schooling or other removal of a child with disabilities from the regular classroom environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

7. **Involvement with peers without disabilities**: The placement decision is focused on **with whom** the child with a disability is educated rather than **where** the child with a disability is educated. Children with a disability have the right to be educated in the regular setting to the greatest extent possible with their peers without disabilities. This provision includes children with a disability placed in a public or private institution or other care facility.

8. **Placement in home school or closest to home**: Unless a child with a disability special education program requires some other arrangements, the child is educated in the school which he or she would otherwise attend. In the event the child cannot be educated in the home school, the child shall be provided an educational program as close to home as possible.

9. **Continuum of alternative placements**: Each district shall have a continuum of alternative placements available at all times to meet the needs of children with a disability.

10. **Variety of educational programs and services equally available**: Each district shall ensure that children with a disability have available the variety of educational programs and services available to children without disabilities.

11. **Participation in non-academic and extra-curricular activities:** Each district shall ensure that children with disabilities shall participate with other children who do not have disabilities in non-academic and extracurricular services and activities to the maximum extent appropriate to the needs of each child with a disability.

12. **Age appropriate placements**: In recommending a placement outside of the regular classroom environment, the I.E.P. Team shall recommend placement in both chronologically age appropriate classroom settings and chronologically age appropriate schools.

13. **Placement is determined annually**: The placement must be considered, including the justification, each time the I.E.P. Team meets.

Section 3. Continuum of alternative placements

The district shall insure that a continuum of alternative placements are available at all times to meet the needs of child with a disability for special education and related services:

> Option 1. **The regular classroom with additional support services**. The child remains in the regular classroom. The teacher and/or child is supplied with special equipment and supplies, special transportation, attendant services, and other supportive services. The regular classroom teacher or special education teacher aide conducts the program. The special education teacher or therapist works with the regular classroom teacher or teacher aide in implementing the I.E.P.

Option 2. **The regular classroom with direct services from special education personnel**. The child remains in the regular classroom. A special education teacher or therapist works with the regular teacher and provides instruction in the regular class to an eligible child whose identified needs can be met with part-time support. The instruction may be on an individual basis or small group basis and is always coordinated with the regular class activities.

Option 3. **The regular educational environment with special education itinerant or resource support**. The child receives as much of the regular classroom instruction as appropriate. Additional educational experiences are provided by a special education resource teacher or therapist in a pull-out program designed to meet identified needs. The duration of time spent with the teacher or therapist is determined by the degree of intervention necessary to meet the child's needs. The instruction may be provided on an individual or small group basis and is always coordinated with the regular class activities.

Option 4. **The regular education environment with self-contained classroom support**. The child receives any regular classroom instruction from which he or she can benefit. The majority of instruction is provided in a self-contained classroom. Integration occurs with peers without disabilities in the regular classroom and in non-academic and extra-curricular activities.

Option 5. **Full-time instruction in a separate day-school**. The child receives all instruction in a separate day-school. These experiences are supplemented by inclusion in those parts of the regular school program which are appropriate.

Option 6. **Home and hospital instruction**. The home and hospital program consists of instructional and/or supportive services which are provided by the school to a child in his home, in a convalescent home, or in a hospital.

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Option 7. **Institutional services**. The child resides in an institutional setting and receives all instruction in this setting. Involvement with peers without disabilities is provided when possible or appropriate.

A combination of the options may be provided a child upon demonstration of need and recommendation of the I.E.P. Team.

The following special education placements are available for child with a disability:

1. itinerant or resource or homebased program;
2. preschool classroom program: self-contained;
3. preschool classroom program: intensive;
4. hospital program;
5. institutional program.

Section 4. Justification for placement

The I.E.P. Team should provide a written statement on the I.E.P. which justifies the need for special education services which are more restrictive than full-time services within the regular classroom (i.e., options 3 through 7). Such a statement justifying a more restrictive placement should answer the following questions, as applicable:

1. What factors identified in the present levels of educational performance or in the student's educational goals and objectives require placement in a self contained classroom in a local school building rather than in the resource or itinerant model?

2. What factors identified in the present levels of educational performance or in the educational goals and objectives require placement in a self-contained classroom in a special school building, rather than in a self-contained classroom in the child's home school, or in the resource or itinerant model?

3. What factors identified in the present levels of educational performance or in educational goals and objectives require placement in an institutional setting, or a private day school under contractual agreement, rather than in a self-contained classroom in the local district, or in the resource or itinerant model?

Justification statements should document consideration of other placement options and reasons for rejecting these options.

Section 5. Consent for initial placement in special education

Before a child can be placed in special education, the child's parents must provide the district with written consent (i.e., the signature of at least one parent). **Only a parent, a guardian, a person acting as a parent or a surrogate parent can provide consent for initial placement in special education.**

Consent means:

- that the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought;
- the parent understands and agrees in writing (the parent's signature) to the carrying out of the activity for which his consent is sought and the consent describes that activity and lists any records that will be released and to whom;
- the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked prior to the action, requiring consent, transpiring.

Revoking consent means:

- Revoking consent for initial placement in special education means that a parent who has provided consent for initial placement can revoke that consent prior to the placement being made. However, once the placement has been made, a parent cannot revoke consent to revert a child to a pre-placement status.

  Note: Once the initial placement has been made, if there is disagreement between the district and the parent, the parents may request a due process hearing.

SECTION 6. Annual determination of educational placement

The child's educational placement shall be determined at least annually by the I.E.P. Team. In reviewing an educational placement, the general procedures outlined earlier in this Part must be considered. A justification should again be stated for continuing a child in a present placement or for changing the child's placement.

Section 7. Least restrictive environment requirements in private schools

The district shall ensure that all children enrolled in public and private schools or facilities will receive services in accordance with the least restrictive environment requirements outlined in this Part.

III. SUPPORTIVE STATUTES AND REGULATIONS

Sec. 14.30.276
Least restrictive environment

Each school district shall ensure that to the maximum extent appropriate, exceptional children, including children in public or private institutions or other care facilities, are educated with children who are not exceptional and that special classes, separate schooling or other removal of exceptional children from the regular educational environment occurs only when the nature or severity of the child's exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

4 AAC 52.170
Least restrictive environment

(a) An exceptional child must be placed in the least restrictive environment that can provide an appropriate educational program for the child.

(b) In this section, "least restrictive environment" means

(l) that, to the maximum extent appropriate, exceptional children are educated with children who are not exceptional.;

(2) that special classes, separate schooling, or other removal of child with disabilities from the regular educational environment occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aid and services cannot be achieved satisfactorily;

(3) that, unless the IEP requires otherwise, the child is educated in the school he or she would attend if not exceptional; and

(4) that, in selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which the child needs.

IV. TECHNICAL ASSISTANCE AND TRAINING ACTIVITIES

The Alaska Department of Education will carry out activities to ensure that teachers and administrators in all public agencies:

a. Are fully informed about their responsibilities for implementing the requirements of this Chapter.

b. Are provided with technical assistance and training necessary to assist them in this effort.

The following are examples of activities the Department may effect to implement the requirements of this Chapter.

- Technical assistance in LRE may be provided at the time of a compliance review depending on the need for such assistance as determined during the review and as indicated on the compliance checklist, LRE section (pp M37-42).
- Technical assistance in LRE is provided on the telephone when requested by districts.
- Training in LRE is provided at the conference of special education directors held twice a year.
- Training in LRE may be required as part of a corrective action plan developed for a district as a result of a compliance review.

V. MONITORING

The SEA assures that if a district makes a placement that is inconsistent with 300.550, the SEA shall

- review the district's justification for its actions, and
- assist in planning and implementing any necessary corrective action.

CHAPTER VIII
PROTECTION IN EVALUATION PROCEDURES

I. GENERAL STATEMENT

In Chapters III and V where full presentations were made about the procedures used for identification and development of the IEPs, the key points of protection were shown to be imbedded in the regulations of the Department of Education. These points are:

- Evaluation materials must have established validity for the purposes used, must be properly administered and interpreted by trained personnel, and must be selected or used in ways to avoid racial or cultural bias. All suspected areas of disability must be assessed through objective testing, interviews, observations by trained professionals, and reports of behavior by adults working with the child. The data must be properly documented and drawn from a variety of sources including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. Communication must be at a level and in a mode as understandable as possible by the child.

- All test results, observations, and reports must be appropriately integrated by a group of adults, some of whom are experts with data handling and with the kinds of interventions that would be most successful with the specific difficulties that the child is experiencing. The leader of this group must be fully aware of the processes that make a staffing successful, and the steps used in assessing needs, in developing educational plans, and in marshaling the necessary resources to implement the IEP effectively. A key feature is the involvement of the persons who must implement the IEP. The placement must be made with the team understanding and being committed to the concept of "least restrictive environment". The goals, learning activities and learning objectives must be solutions that help the child to remain with his/her peers without creating added stress.

- There is follow-through on a regular basis to see that the goals and objectives are being met, and that re-evaluation takes place by established schedules, and more often if necessary.

II. PROCEDURES FOR ENSURING PROTECTION IN EVALUATION PROCEDURES

Section 1. Purpose of an evaluation

The primary purpose of conducting an evaluation is to gather information to determine whether the child is disabled and eligible for special education. A secondary purpose is to identify specific instructional and support services which are needed by the child for meaningful educational benefit.

Section 2. Evaluation coordinator

Once the decision is made to refer a child for a multidisciplinary evaluation the district should appoint an Evaluation Coordinator to oversee the evaluation process from referral through the eligibility decision. In smaller districts, a teacher or the Director of Special Education may serve this function.

Section 3. Obtaining parental consent

The following two parental consents are required as initial steps in the evaluation process.

1. The parents' signature indicating consent to conduct the initial evaluation must be received before any evaluation can be conducted. **Only a parent, a guardian, a person acting as a parent or a surrogate parent can provide consent for initial evaluations.**

   Note: The I.E.P. must be implemented within 45 school days of receiving the parental consent for initial evaluation.

2. The parent's signature indicating consent for other agencies to release information (not required for other education agencies) must be received in order for non-education agencies to release information.

Consent means:

- That the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought.
- The parent understands and agrees in writing (the parent's signature) to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists any records that will be released and to whom.
- The parent understands that the granting of consent is voluntary and may be revoked prior to the action, requiring consent, transpiring.

Revoking consent:

- Revoking consent for initial evaluation means that a parent who has provided consent for an initial evaluation, can revoke that consent prior to the evaluation taking place. However, once the evaluation has been completed, a parent cannot revoke consent to revert the child to a previous status, or to have the evaluation disregarded.

Note: If a parent disagrees with the district evaluation the parent has the right to an independent evaluation.

Section 4. Information from other agencies

Upon receipt of parental consent the Evaluation Coordinator should, if appropriate, send letters requesting information to individuals and agencies who have had contact with the child. (Inclusion of stamped self-addressed envelopes will facilitate timely response.) A copy of the signed consent form should be included with the letters. Sources of this additional information may include:

1. Records from health and social service agencies;
2. Records from pre-school programs;
3. Records from legal service agencies;
4. Records from non-school professionals (e.g., physicians, social workers, psychologists).

After all materials have been collected the Evaluation Coordinator should review the information and determine what evaluations may be required. As part of this process questions should be formulated to be answered by the evaluations.

Section 5. Establishment of multidisciplinary evaluation team

The Evaluation Coordinator should ensure that the multidisciplinary evaluation team (MDT) is formed on the basis of the child's presenting problem(s) and the suspected disability(ies). The MDT must be comprised of:

1. a teacher or other specialist who is knowledgeable in the area of the suspected disability

2. persons who are appropriately certified or licensed and specifically trained in the use and administration of any evaluation materials and procedures which form part of the individual evaluation.

If the child is suspected of having a specific learning disability, the multidisciplinary evaluation team shall also include:

(a) for a child of school age, the child's regular teacher **or**, if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of that age;

(b) for a child of less than school age, a person qualified to teach a child of that age.

Note: It is recommended that the MDT always include the child's teacher.

The MDT has the responsibility to develop a written report which:

1. Establishes the child's disability;
2. Indicates if the child's educational performance has been adversely affected, and
3. Indicates if the child needs special education services.

Note: The presence of a disabling condition is not sufficient to establish eligibility for special education. The disabling condition must result in an educational deficit which requires specially designed instruction (i.e., special education).

Section 6. Individual evaluations

Skills/Status To Assess

The individual evaluations shall include an evaluation of all areas related to the suspected disability, including, where appropriate:

1. health;
2. vision;
3. hearing;
4. motor ability;
5. speech and language (including home language);
6. social skills;
7. adaptive behavior;
8. academic performance;
9. vocational skills (for child of secondary age);
10. problem solving, processing skills;
11. emotional status;
12. general intelligence.

Evaluation Procedures

1. No single evaluation material or procedure may be used to assess whether a child possesses a physical or mental impairment, or to determine an appropriate educational program for a child.

2. Evaluation materials and procedures must be appropriate to determine the nature and extent of a learning impairment, or to assess areas of educational need.

3. Evaluation materials and procedures must be validated for the specific purpose for which they are to be used.

4. Evaluation materials and procedures must be administered in adherence with the developer's instructions and by trained in interpreting evaluation data.

5. Testing and evaluation materials and procedures must be selected and administered so as not to be biased in terms of: race, gender, culture or socioeconomic status.

6. Tests are selected and administered so as best to ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors which the test purports to measure).

7. Evaluation materials and procedures must be in the child's primary language or other mode of communication unless it is not feasible to do so.

   (a) Primary language of the child is that language most frequently used for communication between the child and persons in the child's home.

   (b) The mode of communication is that mode most frequently observed to be used by the child.

   (c) A determination of "not feasible" is made when an individual after reasonable effort cannot be located who is capable and willing at a reasonable cost to:

      (1) Communicate in the child's primary language.

      (2) Communicate in the child's most frequent mode of communication.

Note: If a district determines that it is "not feasible" to provide evaluation materials and procedures in the child's primary language or other mode of communication, the district must document its reasons for "not feasible" and indicate the alternatives used.

8. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

9. In interpreting evaluation data and in making placement decisions, information obtained from all of these sources must be documented and carefully considered.

10. If a determination is made that a child is disabled and needs special education and related services, an individualized education program must be developed for the child in accordance with 34 CFR 300.340-300.350 of Subpart C.

11. When interpreting evaluation data and making placement decisions, all placement decisions must be made in conformity with the least restrictive environment rules in 34 CFR 300.550-300.554..

Individual Evaluation Reports

When written individual evaluation reports are used to summarize a specific evaluation it is recommended that the report include the following information:

1. the area of evaluation;
2. name of the evaluator;
3. the date of the evaluation;
4. the name, birthdate, and sex of the individual evaluated;
5. the evaluation question(s);
6. the evaluation procedures used;
7. the results of the evaluation (including strengths and needs, and diagnosis where appropriate);
8. observations and impressions;
9. recommendations.

Section 7. Multidisciplinary evaluation report

A written multidisciplinary evaluation report must be prepared in order to document that a child is eligible for special education, or when a child is re-evaluated. The report, which should be prepared by the Evaluation Coordinator, must summarize the information from all the evaluations. The MDT report should include at least the following information:

1. the date of the report. (For an initial evaluation this date shall represent the date the child is determined eligible for special education);
2. the name, birthdate, and sex of the child;
3. the dates of the evaluations;
4. a list of the members of the multidisciplinary evaluation team;
5. the signature of each team member;
6. a description of the child's educational performance;

7. a description of environmental, cultural, or economic factors, if appropriate;
8. the disabling condition, and a statement of whether the child requires special education and related services;
9. dissenting opinions, if any.

Note: For learning disabled students, the L.D. Report serves as the Multidisciplinary Evaluation Report.

Learning Disabled

To be eligible for special education and related services as a learning disabled child, the following seven components must be addressed:

(1) The child must exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term includes such conditions as:

- perceptual disabilities
- brain injury
- minimal brain dysfunction
- dyslexia
- developmental aphasia

Learning disability does not include children who have learning problems that are **primarily** the result of:

- a visual disability
- a hearing disability
- a motor disability
- mental retardation
- emotional disturbance
- environmental, cultural, or economic disadvantage;
- lack of attendance;
- a motor disability.

(2) In evaluating a child suspected of having a specific learning disability, the multidisciplinary team must include:

- The child's regular teacher; or
- If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
- For a child of less than school age, an individual qualified to teach a child of his or her age; and
- At least one person qualified to conduct an individual diagnostic examination of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher; and

(3) A team may determine that a child has a specific learning disability if:

The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed below, when provided with learning experiences appropriate for the child's age and ability levels; and

The team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:

- Oral expression
- Listening comprehension
- Written expression
- Basic reading skills
- Reading comprehension
- Mathematics calculation; or
- Mathematical reasoning; and

(4) Observation

At least one MDT member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

An observation should document the name and title of the observer, the site of the observation, and the date of the observation. The observation report must be attached to the MDT Report; and

(5) Written Report

The MDT shall prepare a written report of the results of the evaluation. The report must include a statement of:

- Whether the child has a specific learning disability
- The basis for making the determination
- The relevant behavior noted during the observation of the child
- The relationship of that behavior to the child's academic functioning
- The educationally relevant medical findings, if any
- Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services
- The determination of the team concerning the effects of environmental, cultural, or economic disadvantage

- The report must be dated and each team member shall certify in writing (by their signature) whether the report reflects the team member's conclusion. If it does not reflect the team member's conclusion, the team member must submit a separate statement presenting his or her conclusions; and

(6) require special facilities, equipment, or methods to make his or her education program effective; and

(7) be certified by a multidisciplinary team as qualifying for and needing special education services.

Section 10. Re-evaluation

The district shall ensure that the IEP of each child with a disability is reviewed at least annually. the process is accomplished by the evaluation of the current IEP and development of a new IEP. When changes in the IEP are required at times other than the annual review date, changes may be effected through a scheduled IEP meeting utilizing one of the following options:

- review the entire plan and establish a new annual review date, or

- use an amendment form. When this option is used, the changes become part of the IEP and must be reviewed on the original annual review date.

The district shall ensure that an individual evaluation of each child with a disability is conducted every 3 years or more frequently if conditions warrant or if the child's parent or teacher makes a reasonable request for such an individual evaluation.

When "conditions warrant" means circumstances in which there is sufficient information to suspect that a significant change in a child's educational functioning is occurrihg which may necessitate change in the child's educational program.

A re-evaluation must be conducted by a multidisciplinary evaluation team and include all evaluations required to determine that the child is disabled and in need of special education and related services. The re-evaluation materials and procedures must comply with the requirements necessary to determine a child eligible for special education.

Notice shall be given to the parents prior to a re-evaluation. A multidisciplinary evaluation report must be completed for each re-evaluation and shared with the parents.

For a pre-school developmentally delayed child, re-evaluation by a multidisciplinary team is required prior to reaching age six. The re-evaluation will determine whether the child is eligible for special education and related services.

Section 11. Combining MDT and I.E.P. meetings

It is possible for a district to combine the MDT meeting with the I.E.P. meeting, for eligible children. The district must ensure that the required representatives of both teams are available at the combined meeting. If a combined meeting is held the district should keep the following factors in mind:

(1) It is required that the I.E.P. members meet together. MDT members do not need to meet together; they can be represented by written reports.

(2) Parents must be invited to attend the I.E.P. meeting, but are not required to be invited to the MDT meeting.

(3) The I.E.P. meeting requires specific representatives such as a representative of the district and the child's teacher. The MDT meeting involves those who evaluated the child.

While it is required that parents be provided the opportunity to participate in developing their child's individualized education program, it is not required that parents participate in the decision of whether their child is eligible for special education. Parents must be notified of the eligibility decision, and have the right to challenge that decision through a due process hearing. The district should allow parents the opportunity for a meeting to discuss any changes in eligibility.

II. STATUTES THAT ASSURE PROTECTION IN EVALUATION

Sec. 14.30.191
Educational evaluation and placement.

(a) *A school district shall obtain the consent of the child's parent before an initial evaluation or placement in a program of special education and related services.*

(b) *After initial placement in a program of special education and related services and not less than once every three years for as long as the child is assigned to the program, an exceptional child shall receive an educational evaluation for the identification and classification of exceptional children.*

(c) *Before a school district initiates or refuses a change in a child's placement of program, the district shall notify the child's parent.*

(d) *Upon completion of the evaluation and before placement, the school district shall provide to the parent of each exceptional child an opportunity for consultation about the evaluation. A consultation must be available for each reevaluation of the condition and placement of the exceptional child.*

(e) *A parent may obtain an independent educational evaluation by choosing a person from a list provided by the district or by choosing a person by agreement between the parent and the school district, at the expense of the school district if the parent disagrees with an evaluation obtained by the school district. The school district may initiate a hearing to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district may not be required to pay for the independent educational evaluation.*

(f) *If the parent obtains an independent educational evaluation at private expense, the results of the evaluation*

  (1) *must be considered by the school district in a decision made with respect to the provision of an appropriate public education to the child;*

  (2) *may be presented as evidence at a hearing regarding the child.*

(g) *If a hearing office requests an independent educational evaluation as part of a hearing, the school district shall pay for the evaluation. (§ 5 ch 144 SLA 1970; am § 6 ch 104 SLA 1971; am § 2 ch 79 SLA 1974; am § 4 ch 147 SLA 1984)*

III. REGULATIONS THAT ASSURE NON-BIAS IN COLLECTING AND EVALUATING DATA.

4 AAC 52.120 Evaluation

(a) Each district shall conduct a[N] full individual evaluation of the educational needs of a child who is referred under 4 AAC 52.110, before any action is taken with respect to the initial placement of a child with a disability in a special education program, to determine whether the child is eligible for special education and related services under 4 AAC 52.130.

(b) Tests and other evaluation procedures must

  (1) be selected and administered to eliminate racial and cultural bias;

  (2) be administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;

  (3) have been statistically validated for the purpose for which they are used; and

  (4) be administered by trained personnel in conformity with instructions of the test producer.

(c) The evaluation must be conducted by a multidisciplinary team, which must include at least one teacher or specialist with expertise in the suspected exceptionality.

(d) The child must be assessed in all functions that are related to the suspected exceptionality, which may include health, vision, hearing, intelligence, academic performance, communication status, motor abilities, emotional adjustment, social skills, creative talent, and ability.

(e) A test must be selected and administered to accurately reflect a child's aptitude or achievement level, or any other factors the test is designed to measure, rather than a child's impaired sensory, manual, or speaking skills, unless the test is designed to measure those skills.

(f) No single procedure may be sole criterion for determining the eligibility of a child for services under this chapter.

(g) Each district shall document information obtained from all of the sources listed in (a)-(f) of this section and carefully consider each source.

4 AAC 52.125.
Eligibility

To determine a child's eligibility for special education and related services, the district shall

(1) in interpreting evaluation data, draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
(2) provide that the eligibility decision be made by the multidisciplinary team described in 4 AAC 52.120; and
(3) require the multidisciplinary team to provide a written and dated statement confirming the determination of eligibility.

4 AAC 52.180
Reevaluation

(a) Each district shall reevaluate the educational needs of each exceptional child, in the manner set out in 4 AAC 52.120 and 4 AAC 52.125, to determine whether the child remains eligible for services under 4 AAC 52.130, at reasonable intervals determined in light of the child's progress, but not less often than once every three years, or if the child's parent or teacher requests an evaluation.

(b) A child study team shall review the IEP of each child as set out in 4 AAC 52.140(d).

(c) In addition to the requirements of (a) of this section, for a preschool child with developmental delays, re-evaluation by a multidisciplinary team is required before the child reaches age six, for the purpose of determining whether the child is eligible for special education and related services under one or more of the specific disability categories in 4 AAC 52.130(b)-(l) and (o)-(p).

CHAPTER IX
RESPONSIBILITY OF STATE EDUCATION AGENCY

A. Responsibility of SEA for All Education Programs

Sec. 14.07.010.
Department of Education.

The department of Education includes the commissioner of education, the state Board of Education, and the staff necessary to carry out the functions of the department.

Sec. 14.07.020.
Duties of the department.

(a) The department shall

- *(1) exercise general supervision over the public schools of the state except the University of Alaska;*
- *(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools.*
- *(3) provide advisory and consultative services to all public school governing bodies and personnel;*
- *(4) prescribe by regulation a minimum course of study for the public schools;*
- *(5) establish, in coordination with the Department of Health and Social Services, a program for the continuing education of children who are held in detention facilities in the state during the period of detention;*
- *(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each houses;*

(7) The state department of education through its monitoring and compliance procedures insures that:

(A) each school district in the state providing special education or related services meets the requirements established for this Act ;

(B) each school district program for handicapped children is under the general supervision of persons responsible for those programs in the SEA; and

(C) each education program meets SEA standards;

(8) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, standards in addition to the requirements of AS 18.15.145 that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in pre-elementary schools; the standards for private schools may not be more stringent than those for public schools;

(9) exercise general supervision over pre-elementary schools that receive direct state or federal funding;

(10) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(11) accredit private schools which request accreditation and which meet accreditation standards prescribed by regulation by the department; nothing in this paragraph authorizes the department to require religious or other private schools to be licensed;

(12) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid for a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

(13) provide educational opportunities in the areas of vocational education and training, and basic education to individuals over 16 years of age who are no longer attending school;

(14) administer the grants awarded under AS 14.11.020;

(15) establish, in coordination with the Department of Public Safety a school bus driver training course.

(b) In this section "pre-elementary school" means a school for children ages three through five years if the school's primary function is educational.

Sec. 14.07.030.
Powers of the department.

The department may

(1) establish, maintain, govern, operate, discontinue, and combine area, regional and special schools;

(2) enter into contractual agreements with the Bureau of Indian Affairs or with a school district to share boarding costs of secondary school students;

(3) provide for citizenship night schools when and where expedient;

(4) provide for the sale or other disposition of abandoned or obsolete buildings and other state-owned school property;

(5) prescribe a classification for items of expense to school districts

(6) acquire and transfer personal property, acquire real property, and transfer real property to federal agencies, state agencies, or to political subdivisions;

(7) enter into contractual agreements with school districts to provide more efficient or economical education services; reasonable fees may be charged by the department to cover the costs of providing services under an agreement, including costs for professional services reproduction or printing, and mailing and distribution of educational materials;

(8) provide for the issuance of elementary and secondary diplomas to persons not in school who have completed the equivalent of an 8th or 12th grade education, respectively, in accordance with standards established by the department,

(10) *apply for, accept, and spend endowments, grants, and other private money available to the state for educational purposes in accordance with AS 37.07 (the Executive Budget Act);*

(11) *set student tuition and fees for educational programs provided and schools operated by the department under the provisions of AS 14.07.020 (12) and (1) of this section;*

(12) *charge fees to cover the costs of care and handling with respect to the acquisition, warehousing, distribution, or transfer of donated foods;*

(13) *establish and collect fees for the rental of school facilities and for other programs and services provided by the schools.*

(14) *develop a model curriculum and provide technical assistance for early childhood education programs.*

Sec. 14.07.070.
Withholding state funds.

State funds may not be paid to a school district or teacher who fails to comply with the school laws of the state or with the regulations adopted by the department.

Sec. 14.07.075.
Creation (of the State Board of Education).

There is created at the head of the Department of Education a Board of Education consisting of seven members.

Sec. 14.07.095.
Term of office.

The members of the board shall be appointed for overlapping five-year terms commencing February 1 of the year of appointment. A member appointed to fill a vacancy serves for the unexpired term of the member whose vacancy is filled. A vacancy occurring during a term of office is filled in the same manner as the original appointment.

Sec. 14.07.125.
Meetings.

The board shall meet at least quarterly. Meetings may be called by the chair or by a majority of the members of the board. Meetings shall be held in Juneau unless a majority of the members of the board changes the place of a meeting.

Sec. 14.07.145.
Commissioner of education.

The board shall appoint the commissioner of education subject to the approval of the governor. The commissioner shall be the principal executive officer of the department.

Sec. 14.07.170.
Additional powers and duties of board.

The board may

(1) appoint unpaid advisory commissions;

(2) require school boards or school personnel to submit to the department, in the form the board may require, the district budget or any information or reports that are reasonable necessary to assist the department in carrying out its functions.

Chapter 08. Education in the Unorganized Borough.

Sec. 14.08.011.
Purpose.

(a) It is the purpose of this chapter to provide for public education in the unorganized borough and the military reservations in the state.

(b) Nothing in this chapter prohibits an organized borough, city, village, community or settlement in an unorganized area of the state from becoming part of or being formed into an organized political subdivision authorized under AS 29.

Sec.14.30.180.
Purpose.

(a) *It is the purpose of AS 14.30.180 - 14.30.350 to*

(1) *provide an appropriate public education for exceptional children in the state who are at least three years of age but less than 22 years of age;*
(2) *allow procedures and actions necessary to comply with the requirements of federal law, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).*

Sec. 47.80.100.
Programs for persons with handicaps.

(a) *The Department of Health and Social Services, the Department of Education, and other departments of the state as appropriate, shall, in coordination, plan, develop, and implement a comprehensive system of services and facilities for persons with handicaps, which is consistent with the state plan adopted under AS 47.80.090(5) and is dispersed geographically within the state.*

(b) *The services required in (a) of this section are specialized services or special adaptations of services available to the general population and shall be directed toward the social, personal, physical, or economic habilitation or rehabilitation of person with handicaps.*

c) *Within the limits of appropriations and other available funds, the appropriate department may itself provide the services and establish, operate, and maintain the facilities required under (a) and (b) of this section, or it may provide the services or facilities entirely or in part through contractual arrangements with public or private agencies.*

Sec. 47.80.110.
Program principles.

The system of services and facilities required under AS 47.80.100 shall accord with the principle that service providers shall

- *(1) make services available at times and locations that enable residents of the provider's service area to obtain services readily;*
- *(2) ensure each client's right to confidentiality and treatment with dignity;*
- *(3) establish staffing patterns that reflect the cultural, linguistic, and other social characteristics of the community and that incorporate multidisciplinary professional staff to meet client functional levels and diagnostic and treatment needs;*
- *(4) promote client and family participation in formulating, delivering, and evaluating treatment and rehabilitation;*
- *(5) design treatment and habilitation to maximize individual potential and minimize institutionalization; and*
- *(6) provide services in the least restrictive setting, enabling a person to live as normally as possible within the limitations of the handicap.*

Sec. 47.80.130.
Powers and duties of the department.

(a) The department shall

- *(1) develop budgets and receive and distribute appropriations and fund under this section;*
- *(2) adopt regulations regarding standards of services and facilities for persons with handicaps and the quality of services and the process by which services are to be delivered;*
- *(3) adopt any other regulations necessary to implement this chapter;*
- *(4) provide technical assistance to public and private agencies in planning, developing, and implementing programs to serve handicapped persons;*
- *(5) operate programs and facilities, and enter into agreements, contracts, or grants necessary to provide services required under this chapter;*

(6) take the actions and undertake the obligations which are necessary to participate in federal grant-in-aid programs and accept federal or other financial aid for the study, examination, care and treatment of the handicapped.

(b) For purposes of P.L. 91-517 and P.L. 94-103, as amended, the department is designated the sole administering agency; it shall make applications for, receive, and expend grants under P.L. 91-517 or P.L. 94-103, as amended, and otherwise exercise the powers and perform the duties and functions necessary to comply with P.L. 91-517 and P.L. 94-103, as amended.

(c) The Department of Education may make applications for, receive, and expend grants under P.L. 91-230 (The Education for the Handicapped Act), as amended, and otherwise exercise the powers and perform the functions necessary to comply with that Act.

4 AAC 52.020.
District responsibility.

Each district shall administer a program offering special education and related services so as to provide an appropriate educational program for exceptional children ages 3 - 21 who reside within the district.

4 AAC 05.070.
Program planning and evaluation.

(c) Each school district must provide for the direct involvement of parents, students, and other members of the community, including the local school committee, in the development of education plans and evaluations and improvement of the educational program. School districts must provide sufficient information, including notice through appropriate media and community meetings, provide copies of appropriate materials, and allow adequate time for community members to review a proposed plan and to discuss all aspects of the program with responsible district personnel.

(d) Each school district must submit education plans and evaluations, in the form required under (g) of this section, to the Commissioner of Education, 801 W. 10th Street, Suite 200, Juneau, Alaska 99801. Plans must be submitted by November 1 and evaluations by June 1. The commissioner will review education plans and evaluations, and will advise the district whether it has satisfied the requirements of this section within 30 calendar days after their receipt.

(e) Each school district must maintain a copy of each education plan and evaluation developed under this section on file for public inspection in the school district office and in the school to which the plan or evaluation applies. The school district must make copies of the plan and evaluation available to each member of the local school committee, and, upon request, to members of the community.

(f) Each school district must use its best efforts to assure that a school is operated according to the education plan. Changes in the plan may be made at any time, and must be reported at a public meeting of the local school committee. The requirements of (e) of this section apply to changes in the plan.

4 AAC 52.030.
Advisory panel.

The Governor's Council on Disabilities and Special Education established under AS 47.80.030-47.80.090 is the advisory panel under 20 USC 1400-1485. (The Education for All Handicapped Children Act, P.L. 94.142 as amended in 1990 by The Individuals with Disabilities Education Act, P.L. 101-476 as amended in 1991 by P.L. 102-119; and AS 14.30.231.

4 AAC 52.910.
Effective date.

(a) The provisions of this chapter (Handicapped Education) take effect July 1, 1983.

(b) A child who has been determined by a district to be eligible for special education and related services before July 1, 1983 may continue to receive special education and related services pending reevaluation of the child under 4 AAC 52.180.

4 AAC 60.010.
Requirements. (Pre-elementary-early childhood-school)

(a) Every person, institution or agency operating a school for children ages three through five years, when the school's primary function is educational, shall apply to the department for a certificate of approval.

(b) The educational component of all pre-elementary programs is under the general supervision of the department in cooperation with the Department of Health and Social Services. Those programs not approved by the Department of Education are supervised by the Department of Health and Social Services.

(c) Before admitting a child whose school expenses could be the responsibility of departments of state government, authorization of eligibility should be requested from the appropriate department by the school.

4 AAC 60.020
Exemptions (Early childhood school)

The following are exempt from 4 AAC 60.010: (schools of the federal government, religious organizations, and)

(3) schools that enroll six children or less.

4 AAC 60.170.
Programmatic requirements of the pre-elementary schools.

(a) The pre-elementary school shall provide the following information, in writing, to the department: the philosophy of education; the goals and objectives of the school; the program model and teaching techniques used in achieving the stated goals and objectives; daily educational activities schedule including provisions for individual activities, small group activities and large group activities; the number and ages of the children to be served along with the number of staff members working with the children; provisions for parental involvement; a copy of all public advertisements regarding the school; a copy of the personnel and administrative rules of the school; and a copy of all administrative forms used by the school.

(b) A pre-elementary school must have sufficient staff to provide for each child's physical care and to offer individual attention to children as it may be needed as well as time to interact with children for the benefit of their conceptual and language growth. The number of staff and their utilization should reflect programmatic requirements, differences in the needs of the children served and should permit flexible groupings.

(c) There must be at least two staff members, one of whom may be a teacher-aide, present in each building. They must be stationed in sufficient proximity to be of aid in emergency situations.

(d) The operator shall provide a written training plan for each staff member who serves in the capacity of teacher, teacher-aide or assistant teacher. This plan must include provisions for preservice and inservice training and must indicate frequency as well as content.

(e) The department shall investigate to determine whether the programmatic objectives of the school are being met.

B. SEA monitoring procedures

Sec. 14.14.050. Annual audit.

(a) *The school board in each school district shall, before October 1 of each year, provide for an audit of all school accounts for the school year ending the preceding June 30. To make the audit the school board shall contract with a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the district. One certified copy of the audit shall be filed with the commissioner and one certified copy shall be posted in a public place at the principal administrative office of the district.*

(b) *The audit shall conform in form to requirements established by the commissioner. The commissioner shall withhold all payments of state funds after November 15 to a school district which fails to file a certified copy of the audit with the department.*

(c) *The commissioner may provide for a reaudit or an audit check in a school district if in the commissioner's judgment it is necessary to substantiate the reported expenditures.*

(d) *The school board shall not make the audit if an audit that satisfies the requirements of this section and that is filed and posted as required by this section is made according to AS 29.35.110.*

4 AAC 09.110.
School district budget.

(a) A district must submit its budget for each fiscal year to the department not later than July 15 of the fiscal year.

4 AAC 09.120.
Budget review.

(a) After reviewing a budget submitted under 4 AAC 09.110, the commissioner will either approve the budget, or reject a budget that is
   (1) not in the form required by the department;
   (2) not balanced; or
   (3) does not meet the local effort provisions of AS 14.17.

4 AAC 09.130.
School district audit.

A district must submit the annual audit of the district's operating fund for the fiscal year to the commissioner no later than October 1 of the succeeding fiscal year.

4 AAC 52.770.
Program review.

(a) The department will monitor school district programs to insure compliance with the requirements of this chapter and with assurances given upon application for state or federal financial aid.

(b) Upon request by the department, a district shall provide
   (1) a list of students receiving services under this chapter, including each student's name, age, exceptionality, type of service, related services, entry date, exit date, and placement;
   (2) a list of all administrators, teachers, teacher aides, and related services personnel who provide special education services in the district including, for certificated staff, the teacher certificate numbers;
   (3) a list of persons or agencies in the district from which independent evaluations can be obtained;
   (4) a statement of the criteria used to determine eligibility for services as a gifted student under 4 AAC 52.130; and
   (5) any other information required by the department.

(c) At least 30 days before visiting a district, the department will provide written notice to the district of the date and purpose of the visit.

(d) The department will submit written results of program monitoring to the district within 30 days after completion of a visit under (a) of this section. The written results will include a statement of necessary corrective action.

(e) If the department determines that a district is substantially out of compliance with the requirements of this chapter application requirements for state financial aid, or with assurances given for federal financial aid, it will conduct an entitlement review under 4 AAC 52.780.

4 AAC 52.780
Entitlement review

(a) The department will, in its discretion, conduct an entitlement review of the records of a district at any time, notwithstanding the results of one or more program reviews under 4 AAC 52.770, to ensure compliance with the requirements of this chapter, with application requirements for state financial aid, and with assurances given upon application for federal financial aid.

(b) The department will submit preliminary entitlement review findings to the district within 30 days after completion of the review.

(c) The district may submit to the department a written response to the preliminary review findings within 30 days after receipt of the findings by the district.

(d) Within 15 days, after receipt of the response of a district to preliminary entitlement review findings, the department will, in its discretion, or the district may, pursue additional means to resolve any issues in dispute between them.

(e) After expiration of the period set out in (d) of this section, the department will issue final entitlement review findings. The final entitlement review findings are subject to appeal under 4 AAC 52.750.

C. Policies and procedures for use of Part B funds.

Assurance statements, nonsupplanting of funds

The Alaska Department of Education has in place Monitoring for compliance procedures regarding nonsupplanting of other district funds through federal funds provided for special education as required by Part B of the Education of the Handicapped Act, as amended (20 U.S.C. 1411 - 1420):

1. In carrying out the requirements of 20 U.S.C. 1412, the state department of education has established procedures and monitors for compliance activities involving consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children (20 U.S.C. 1412 (7) (A)).

2. The state department of education has procedures which assure that:

   (a) funds received by the State or any of its political subdivisions under any other Federal program, including Chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 - 3807) and Section 122 of the Vocational Education Act of 1963 (20 U.S.C. 1232), under which there is specific authority for the provision of assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public for all handicapped children, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs (20 U.S.C. 1413 (a) (2)).

(b) Federal funds made available under the Act (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under control of State or local educational agencies) expended for special education and related services provided to handicapped children and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this clause if he concurs with the evidence provided by the State (20 U.S.C. 1413 (a) (9)).

3. The State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in, or concerned with, the education of handicapped children, including handicapped individuals, teachers, parents, or guardians of handicapped children, State and local education officials, which (A) advises the State educational agency of unmet needs within the State in the education of the handicapped children, (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under the Act and (C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of his responsibilities under 20 U.S.C. 1418 (20 U.S.C. 1413(a) (12)).

4. The Education of the Handicapped Act, as amended, will not be construed by the State to permit the State to reduce medical or other assistance available under, or to alter the eligibility requirements of, programs funded in whole or in part through Title V (Maternal and Child Health) or Title XIX (Medicaid) of the Social Security Act, with respect to the provision of a free appropriate public education for handicapped children within the State.

D. Implementation Procedures -- SEA

The Department publishes and distributes regulations and procedures handbooks, holds LEA special education directors meetings, and otherwise informs local school districts insuring effective implementation of procedural safeguards.

E. Additional SEA Policies and Procedures

The department shall not limit the responsibility of other State agencies other than educational agencies for providing or paying for some or all of the costs of FAPE.

CHAPTER X
COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

I. GENERAL STATEMENT

In accordance with section 613 (a)(3) of the Act, the State implemented a Comprehensive System of Personnel Development (CSPD), beginning in 1992, which included the following;

(a) Procedures and activities for the development, updating, and implementation of a plan that;

  (1) addresses current and projected special education and related services personnel needs, including the need for leadership personnel; and

  (2) coordinates and facilitates efforts among State and local education agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel with disabilities.

(b) A description of the procedures and activities the State will undertake to ensure that personnel necessary to carry out the purposes of the Act are appropriately and adequately prepared, including procedures for the continuing education of regular education, special education, and related services personnel, including leadership personnel, as well as the procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and procedures for adopting, where appropriate, promising practices, materials, and technology, proven effective through research and demonstration.

(c) A description of the procedures and activities used by the State for the development and maintenance of a system for annual data collection on numbers and types of special education and related services personnel (including audiologists, counselors, diagnostic and evaluation personnel, home-hospital teachers, interpreters for the deaf and hearing impaired, occupational therapists, physical therapists, psychologists, rehabilitation counselors, social workers, speech-language pathologists, teacher aides, recreation and therapeutic recreation specialists, vocational education teachers, work study coordinators and other instructional and noninstructional staff), including leadership personnel (including administrators and supervisors of State or local agencies who are involved in the provision or supervision of services or activities necessary to carry out the purposes of this Section), as well as procedures for the development and maintenance of a system for determining, on an annual basis, data on qualified personnel, including;

(1) the number and type of personnel, including leadership personnel, employed in the provision of special education and related services, by profession or discipline;

(2) the number and type of personnel who are employed with emergency, provisional, or temporary certification in each profession or discipline who do not hold appropriate State certification, licensure, or other credentials comparable to certification or licensure for that profession or discipline; and

(3) the number and type of personnel, including leadership personnel, in each profession or discipline needed and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other departures of personnel from the field, and other relevant factors.

To determine which state institutions of higher education prepare special education and related service personnel, including leadership personnel, beginning during FY 1993, the University of Alaska - Fairbanks is distributing and compiling new forms, modified Part III - Table I - Section B and B - Option I.

The State is presently reviewing the current CSPD plan
and developing the subsequent plan, to be effective FY 1995-2000.

Note: The activities which the State undertakes to adopt promising practices, materials and technology proven effective through research and demonstration include:

1. Award mini-grants to districts and agencies adopting promising practices.

2. Award stipends to teachers attending training in areas deemed promising by the CSPD Committee;

3. Present promising practices as conference sectionals or pre-conference training at the annual Special Education Director's Conference or State-Wide Special Education Conference.

4. Disseminate promising practices through use of self-paced training modules sent via US Mail.

II. SUPPORTIVE REGULATION

4 AAC 52.260
Personnel Development

Each school district shall provide a program of ongoing training for all general and special education instructional, related services, and support personnel, including teacher aides, and as appropriate, bus drivers and bus aides. The program must implement and use the comprehensive system of personnel development established by the department under 34 C.F.R. 300.380 - 387, as those sections exist as of July 1, 1983.

CHAPTER XI
PRIVATE SCHOOLS

I. PARTICIPATION IN PRIVATE SCHOOLS

It is the policy of the Alaska Department of Education to ensure through its monitoring for compliance procedures that, to the extent consistent with their number and location in the state, provision is made for participation of private school children with disabilities in the program assisted or carried out under P.L. 94-142 or P.L. 89-313 by providing them with special education and related services. These procedures shall include monitoring the following:

(1) The local school district shall provide students enrolled in private schools with a genuine opportunity for equitable participation in pertinent federal authorizing statute and regulations;

(2) The local school district shall provide that opportunity to participate in a manner that is consistent with the number of eligible private school students and their needs;

(3) The local school district shall maintain continuing administrative direction and control over funds and property that benefit students enrolled in private schools:

(4) The local school district shall adhere with the requirements in 34 CFR 76.651-76-662 (76.651(b) (1);

(5) The local school district shall consult with appropriate representatives of students enrolled in private schools during all phases of the development and implementation of projects included in the districts application for funding, including the following:

(a) which children will receive benefit under the project;
(b) how the children's needs will be identified;
(c) what benefits will be provided;
(d) how the benefits will be provided;
(e) how the project will be evaluated;

(6) The school district shall consult with appropriate representatives of students enrolled in private schools before the district makes any decision that affects the opportunities of those students to participate in the project;

(7) The school district shall provide the appropriate representative a genuine opportunity to express their views regarding each matter subject to applicable consultation requirements;

(8) On a basis comparable to that used by the school district in providing for the participation of public school students in a program the district shall determine:

(a) the needs of students enrolled in private schools;
(b) the number of those students who will participate in a project;
(c) the benefits the district will provide under the program to those students;

(9) For any projects carried out directly by the State it complies with the requirements as if it were a subgrantee.

Through monitoring for compliance procedures such as written reports, on-site visits and parent questionnaires, the Alaska Department of Education shall ensure that:

(1) the program benefits that a local school district provides for students enrolled in private schools must be comparable in quality, scope and opportunity for participation to the program benefits that the district provides for students enrolled in public schools;

(2) if the school district uses funds under a program for public school students in a particular attendance area, or grade or age level, the district shall ensure equal opportunities for participation by students enrolled in private schools who:

    (a) have the same needs as public school students to be served; and
    (b) are in that group attendance area, or age or grade level;

(3) if the needs of students enrolled in private schools are different from the needs of students enrolled in public schools, a school district shall provide program benefits for the private school students that are different from the benefits the district provides for the public school students;

(4) the school district shall not spend a different average amount of program funds on:

    (a) a student enrolled in a private school who receives benefits under the program; and
    (b) a student enrolled in public school who receives benefits under the program;

(5) the school district shall spend a different average amount on program benefits for students enrolled in private schools if the average cost of meeting the needs is different from the average cost of meeting the needs of students enrolled in public schools;

(6) the school district shall include the following information in its application;

- (a) description of how the applicant will meet the Federal requirements for participation of students enrolled in private schools;
- (b) the number of students enrolled in private schools who have been identified as eligible to benefit under the program;
- (c) the number of students enrolled in private schools who will receive benefits under the program;
- (d) the basis the applicant used to select the students;
- (e) the manner and extent to which the applicant consulted with representatives of the private school;
- (f) the places and times that the students will receive benefits under the program; and
- (g) the differences, if any, between the program benefits the applicant will provide to public and private school students and the reasons for the differences;

(7) The school district shall not use program funds for classes that are organized separately on the basis of school enrollment or religion of the students if:

- (a) the classes are at the same site;
- (b) the classes include students enrolled in public schools and students enrolled in private schools;

(8) The school district may not use program funds to finance the existing level of instruction in a private school or to otherwise benefit the private school;

(9) The school district shall use program funds to meet specific needs of students enrolled in private schools, rather than:

  (a) the needs of the private school; or
  (b) the general needs of the students enrolled in a private school;

(10) The school district may use program funds to make public personnel available in other than public facilities:

  (a) to the extent necessary to provide equitable program benefits designed for students enrolled in private schools; and
  (b) if those benefits are not normally provided by the private school;

(11) The school district may use program funds to pay for the services of an employee of a private school if:

  (a) the employee performs the services outside of his or her regular hours of duty; and
  (b) the employee performs the services under public supervision and control;

(12) With respect to equipment, the school district:

- (a) shall keep title to and exercise continuing administrative control of all equipment and supplies that the school district acquires with program funds;
- (b) may place equipment and supplies in a private school for the period of time needed for the project;
- (c) shall ensure that the equipment or supplies placed in a private school:
    - (1) are used only for the purpose of the project; and
    - (2) can be removed from the private school without remodeling the private school facilities;
- (d) shall remove equipment or supplies from a private school if the equipment and supplies are no longer needed for the purpose of the project or removal is necessary to avoid use of the equipment or supplies for other than project purposes;

(13) The school district ensures that program funds are not used for the construction of private school facilities.

- (c) Services provided in public facilities may not include classes that are separated on the basis of public or private school enrollment or the religious affiliation of the children.

II. PLACEMENT IN PRIVATE SCHOOLS

It is the policy of the Department of Education that if children with disabilities are placed in or referred to private schools or facilities by the state or local education agency as a means of meeting the educational needs specified in the IEP, the referring agency will be required to assure that

1. The services provided are in conformance with the IEP which meets the requirements under Regs. 300.340-300.349 of Part C;
2. The services provided are at no cost to the parents;
3. Each private school or facility to which a school district has referred or placed a child with a disability receives a copy of State standards, and revisions as they occur.
4. The services are provided in a school or facility which meets State education standards;
5. Private schools or facilities to which a school district has referred or placed a child with a disability shall have the opportunity to participate in the development and revision of standards relating to special education.
6. Private schools or facilities shall meet minimum requirements of the regulations issued by the State Department of Education.
7. The State shall seek to recover any funds made available under Part B for services to any child determined to be erroneously classified as eligible to be counted.

8. If a parent opts for a private education rather than a free, appropriate public education, then the parent shall assume financial responsibility for private schooling. However, the public agency shall make services available to the child as provided under Regs. 300.450 - 300.460. Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child, and the question of financial responsibility are, subject to the due process procedures under Regs. 300.500 - 300.515 of subpart E.

9. Parents whose children are receiving services in a private school or facility shall be assured that children have all the rights as if the children were being educated in a public school.

10. As used in this part, "private school children with disabilities" means children with disabilities enrolled in private schools or facilities other than children with disabilities covered under Regs. 300.400 - 300.402.

III. REGULATIONS

4 AAC 52.230
Private schools

(a) Each district shall make special education and related services available to children who attend private or nonpublic schools within the district.

(b) Services provided in public facilities may not include classes that are separated on the basis of public, private or nonpublic school enrollment or the religious affiliation of the children.

4 AAC 52.240
Cost of services

(a) Each district shall evaluate a child and provide special education and related services to the child in conformity with the IEP of the child at no cost to the child or parent.

(b) This section does not prohibit incidental fees which are normally charged to children who do not have disabilities or gifts as part of the regular education program, and does not relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a child with disabilities or gifts. (Eff. 7/1/83, Register 86)

Sec. 14.09.020
Transportation for nonpublic school students

In those places in the state where the department of a school district provides transportation for children attending public schools, the department also shall provide transportation for children who, in compliance with the provisions of AS 14.30, attend nonpublic schools which are administered in compliance with state law where the children, in order to reach the nonpublic schools, must travel distances comparable to, and over routes the same as, the distances and routes over which the children attending public schools are transported. The commissioner shall administer this nonpublic school student transportation program, integrating it into existing systems as much as feasible, and the cost of the program shall be paid from funds appropriated for that purpose by the legislature.

4 AAC 52.580
Placement of child during proceedings

(a) During the pendency of an administrative or judicial proceeding concerning the identification, evaluation, or educational placement of a child, unless the parties agree otherwise, the child shall remain in the educational placement which preceded the administrative or judicial proceeding.

(b) Notwithstanding (a) of this section, if the proceedings concern an application for initial admission to school, the child must, with the consent of a parent, be admitted to school until completion of all proceedings.

CHAPTER XII
RECOVERY OF FUNDS FOR MISCLASSIFICATION

I. GENERAL STATEMENT

It is the policy of the Department of Education to monitor school district programs to ensure compliance with all state and federal laws and regulations. One fifth of the schools in the state are monitored annually for compliance with special education rules and regulations. If after an entitlement review the Department determines that an overpayment has occurred due to misclassification of children eligible to be counted under sections 611(a) or (d) of IDEA, it will require repayment or withhold all or part of one or more future payments. This decision is subject to administrative review.

II. PROCEDURES FOR COMPLIANCE MONITORING

1.0 Prior to the On-Site Review:

- 1.1 Confirm accuracy of student counts from the list of students served provided by the district.
  - 1.1.1 Federal: Ensure that the correct number of students reported by the district were in service on count date. If the review is conducted prior to the count date, confirm last year's count.
  - 1.1.2 State: Ensure that students, by type of service, were in service on the count date.
- 1.2 Review district's procedure manual (94-142 or 89-313 application). The district must follow the policies, procedures and assurances described in their application.
- 1.3 Review district's surrogate parent plan.
- 1.4 Review district's child find plan
- 1.5 Confirm district's list of agencies from which an independent evaluation may be obtained.
- 1.6 Review private school information.

1.7 Confirm training of:

- 1.7.1 Preschool teachers
- 1.7.2 Aides
- 1.7.3 Persons collecting or using personally identifiable information.

1.8. Confirm certification and endorsement of staff.

1.9 Involvement of Parents: At least thirty days prior to a review, the special education staff conducting the review will send a letter to the district superintendent asking that all parents of exceptional children in the district be notified of the department's visit. The notice will contain the following information:

- 1.9.1 The purpose of the review
- 1.9.2 The dates of the review
- 1.9.3 The name of the special education staff conducting the review
- 1.9.4 A specific two hour period of time that parents can meet with or call the special education staff conducting the review

1.10 The district will be asked to provide the department special education staff with an adequate place to meet with parents, and access to a telephone to receive calls.

1.11 The district should be informed that the department may contact parents to ensure that parents were notified of the department's visit.

2.0 On Site Review:

2.1 Review of student files

2.1.1 Randomly review as many student files as time will permit. Review files from different schools and files which represent students with different exceptionalities and age levels.

2.1.2 Of the files reviewed, select several student files from where classroom visits will be conducted and secure copies of these students IEP's. This information will be used during the classroom visits to confirm that the students are being provided with the services listed on the students IEP's.

2.2 Classroom visits:

2.2.1 Using the copy of the students IEP's collected above, confirm that IEP's are being implemented as written. The following procedures may be used:

2.2.2 Observe the program
2.2.3 Review lesson plans
2.2.4 Review attendance records of classroom teacher/related service provider
2.2.5 Interview teacher/related service provider
2.2.6 Interview student
2.2.7 Check attendance

3.0 Compliance Monitoring Report:

3.1 The report will describe only violations of legal requirements.

3.2 In writing the report follow the "Compliance Monitoring Checklist" format.

3.3 Do not use students names on the report. If you want to bring a student or students to the attention of the district, do so with an attachment to the report.

3.4 When a violation is reported, reference the legal requirement in federal or state statute or regulation and the Alaska Special Education Handbook.

3.5 Each violation cited must be followed by a required corrective action. Each corrective action must include:

3.5.1 A specific date for the corrective action to be completed
3.5.2 A statement of the proof required of the district to show that the violation has been corrected. (Require actual proof, rather than a statement of assurance or a promise that the corrections have been or will be made.)

3.6 The following format must be followed in writing reports:

3.6.1 State the problem. (i.e. Child study team not composed of required participants)

3.6.2 Cite the legal requirement and the Alaska Special Education Handbook. (i.e. 4 AAC 52.140 Individual Education Program, (b), (2); Alaska Special Education Handbook, Section 4 Participants in IEP Meetings, pp 51-55

3.6.3 Describe the violation. In the case of student file violations, state the number of violations found in relation to the total number of files checked (i.e. Four of thirty-six IEP's show participation of only the child's teacher and the child's parent)

3.6.4 Describe the required corrective action and specific date the proof must be provided that the correction has been made. (i.e. The following information must be provided to the Office of Special and Supplemental Services by December 25, 1990: Documentation that parents of the students cited above were invited to an IEP meeting. Copy of IEP's which show that the required participants were in attendance)

3.6.5 Explain, as much as possible, the action that will be taken by the department if the corrections are not made. (i.e. if the corrections are not made by 12-25-90, the state and federal special education funds generated by the district for the students involved may be deducted from the district's allocation)

3.7 Before the report is sent to the district, a draft copy must be approved by the State Special Education Director.

3.8 The final report will be sent to the district with a cover letter from the State Special Education Director.

3.9 If you have positive statements you want to make, if you have written technical assistance you want to provide, or if you want to address best practice or make recommendations, do so with separate correspondence, which must be approved by the Special Education Director before it is sent to the district.

4.0 Follow-up compliance monitoring review

4.1 If the corrective actions are not received on the date required, or if the district does not complete the corrective actions as described in the compliance monitoring report, notify the state special education director who will contact the district special education director or district superintendent to determine the reason for the corrective actions not being completed. Based on the information received, the state special education director may either:

4.1.1 Implement the action against the district described in the report
4.1.2 Allow an extension of time for the district to respond

4.2 If there is further delay or if the district does nor respond appropriately, notify the state special education director so that the action against the district described in the report can be implemented.

4.3 When all corrective actions have been made, provide the completed file to the State Special Education Director, who will review the file and if approved, send a letter to the district that the district is in compliance with special education requirements.

4.4 The completed file, which will include all of the reports, working papers, and correspondence , will be placed in a file cabinet for that fiscal year.

III. VALIDATION PROCEDURES FOR THE PART B CHILD COUNT

To insure that the child counts submitted by the Alaska Department of Education for Part B, PL 89-313 and Section 619 funding are unduplicated, the following procedures will be adopted.

(1) A student-level electronic database will be created which will replace the existing paper-based aggregation system. This electronic database will consist of all special education students in Alaska counted for federal funding on December 1 of each year. Electronic data will be collected from each school district and the Part H program and transmitted to the Alaska Department of Education. The database will be a subset of a state-wide data collection system for all Alaska public school students which is currently in the planning stages.

(2) Specific data, which will consist of an estimated 50 fields of information on each student, will be collected each year from all public agencies which receive Part B and/or PL 89-313 funds, namely, school districts and Alaska's Part H Program. The special education data will be current as of December 15th of each year.

One of the fields included will have each child coded as to source of federal funding, Part B or PL 89-313. This will ensure that within districts (or the Part H program) each specific child is counted for only one source of federal funding.

Three other fields will have each child coded as:

(a) (yes or no) received an evaluation from a multi-discplinary team as required under 4 AAC 52.120;

(b) (yes or no) has a current IEP as required by 4 AAC 52.140;

(c) is currently receiving special education;

An additional series of yes/no fields will ascertain which, if any, related services each child is receiving.

(3) The student-specific data will be compiled into a master database and subjected to a duplication-checking subrouting which will flag all records having the same unique identifiers. Public agencies having flagged students will be contacted in order to determine if the records are duplicates. In those cases where genuine duplicates are found, a corrected data set that resolves the duplication will be required form the pertinent districts. The data-set that results after corrections have been made for all duplications will be used to generate the Part B and PL 89-313 child counts submitted to OSEP.

(4) Planning and other preliminary work on this data system will begin in January of 1994. Full implementation of the system is estimated to require three years.

The existing paper child count system will be continued for the December 1, 1994 and 1995 child counts. While electronic data will be collected from some school districts and the Part H Program during these two child counts (as part of pilot testing the system), it is not anticipated that a complete state-wide data set will be available until the December 1, 1996 child count which will be conducted using both the existing paper and newly developed electronic system. The December 1, 1997 and all subsequent child counts will be conducted using the electronic system.

IV. REGULATIONS

4 AAC 52.710
Federal financial aid.

(a) Each district providing special education and related services may apply for federal financial aid under P.L. 89-313 or P.L. 94-142 in accordance with 4 AAC 06.120 and this section.
(b) An application must be submitted, on a form provided by the department, to the Department of Education, Division of Educational Program Support, 801 W. 10th St., Suite 200, Juneau, Alaska 99801.
(c) Each application must contain, in addition to other information determined necessary by the department, a statement of assurance that the district will perform the services described in the application in accordance with this chapter and applicable state and federal laws.
(d) The department will notify a district of the action taken on its application within 30 days after receipt of the application. Approval by the department must be received before commencement of activities.

(e) A district applying for financial aid under this section shall submit, on a form provided by the department, a statement of the number of children receiving special education and related services in each of the categories set out in 4 AAC 52.130. In addition
  (1) a district applying under 20 USC 1221-1226 (Elementary and Secondary Education Act of 1965, P.L. 89-313), as amended in 1988 by P.L. 100-297, shall submit the statement before December 16 of the school year preceding the school year for which application is made and shall include information as of December 1 of that year;
  (2) a district applying under P.L. 94-142 shall submit the statement before December 16 of the school year preceding the school year for which application is made and shall include information as of December 1 of that year.

(f) A district that has been determined eligible for financial aid under P.L. 89-313 or P.L. 94-142 shall submit, on a form provided by the department, a quarterly financial report within 30 days after the end of each quarter, and a project description report within 30 days after the close of any activity for which financial aid is provided under this section.

(g) A district that has been determined eligible for financial aid under P.L. 89-313 shall submit, on a form provided by the department, a report of children who received special education and related services from a city or borough school district before July 1 following the school year for which financial aid is provided under this section.

4 AAC 52.750
Administrative appeal.

A district may appeal a decision of the department concerning its eligibility for, or the among of, financial aid under 4 AAC 52.700 - 4 AAC 52.740 in accordance with 4 AAC 40.010 - 4 AAC 40.050.

4 AAC 52.760

Maintenance of records.

(a) Each district providing special education and related services shall maintain records which demonstrate to a reasonable certainty, as determined by the department, that the district is in compliance with the requirements of this chapter and with assurances given upon application for state or federal financial aid.

(b) Records required under (a) of this section include for each child at least the

- (1) child's name, date of birth, and sex;
- (2) category of eligibility under 4 AAC 52.130;
- (3) date of referral;
- (4) tests and other documents demonstrating eligibility under 4 AAC 52.125 and 4 AAC 52.130;
- (5) IEP;
- (6) services provided, including dates of initiation and termination;
- (7) class and grade attendance records;
- (8) grade level;
- (9) name, address, and telephone number of each parent; and
- (10) correspondence and other communications with a parent required by this chapter.

(c) A district shall maintain records required under (a) of this section until no longer needed to provide educational services, but not less than five years. The records, with the exception of an attendance records, must be maintained in a single file.

(d) If the child moves from one district to another, the district that has provided special education and related services shall, subject to the requirements of 4 AAC 52.530(a)(2), transmit copies or records maintained in accordance with this section to the other district upon request of that district or a parent of the child.

(e) The requirements of this section are in addition to other requirements of 4 AAC 06.120, this chapter, or other law.

4 AAC 52.770
Program review

(a) The department will monitor school district programs to insure compliance with the requirements of this chapter and with assurances given upon application for state or federal financial aid.

(b) Upon request by the department, a district shall provide

(1) a list of students receiving services under this chapter, including each student's name, age, exceptionality, type of service, related services, entry date, exit date, and placement;

(2) a list of all administrators, teachers, teacher aides, and related services personnel who provide special education services in the district, including, for certificated staff, the teacher certificate numbers;

(3) a list of persons or agencies in the district from which independent evaluations can be obtained;

(4) a statement of the criteria used to determine eligibility for services as a gifted student under 4 AAC 52.130; and

(5) any other information required by the department.

(c) At least 30 days before visiting a district, the department will provide written notice to the district of the date and purpose of the visit.

(d) The department will submit written results of program monitoring to the district within 30 days after completion of a visit under (a) of this section. The written results will include a statement of necessary corrective action.

(e) If the department determines that a district is substantially out of compliance with the requirements of this chapter, application requirements for state financial aid, or with assurances given for federal financial aid, it will conduct an entitlement review under 4 AAC 52.780.

4 AAC 52.780
Entitlement review

(a) The department will, in its discretion, conduct an entitlement review of the records of a district at any time, notwithstanding the results of one or more program reviews under 4 AAC 52.770, to ensure compliance with the requirements of this chapter, with application requirements for state financial aid, and with assurances given upon application for federal financial aid.

(b) The department will submit preliminary entitlement review findings to the district within 30 days after completion of the review.

(c) The district may submit to the department a written response to the preliminary entitlement review findings within 30 days after receipt of the findings by the district.

(d) Within 15 days after receipt of the response of a district to preliminary entitlement review findings, the department will, in its discretion, or the district may, pursue additional means to resolve any issues in dispute between them.

(e) After expiration of the period set out in (d) of this section, the department will issue final entitlement review findings. The final entitlement review findings are subject to appeal under 4 AAC 52.750.

CHAPTER XIII
NOTICE AND OPPORTUNITY FOR HEARING ON LEA APPLICATION

I. GENERAL STATEMENT

APPROVAL/DISAPPROVAL PROCEDURES FOR APPLICATIONS FOR FEDERAL FUNDS

a. Before the department disapproves an application for funding under Part B and Section 619 of the Individuals with Disabilities Education Act or Chapter 1, State-Operated or Supported Programs for Handicapped Children of Title 1, Chapter 1 of the Elementary and Secondary Education Act of 1965, as amended, an opportunity for a hear will be provided.

1. The applicant shall request the hearing within 30 days after denial of the application by the department.

2. Within 30 days after it receives a request, the department shall hold a hearing on record and shall review its action.

3. No later than 10 days after the hearing the department shall issue its written ruling, including findings of fact and reasons for the ruling.

4. If the department determines that its action was contrary to State or Federal statutes or regulations that govern the applicable program, the department shall rescind its action.

5. If the department does not rescind its final action after a review under this paragraph, the applicant may appeal to the Secretary. The applicant shall file a notice of the appeal with the Secretary within 20 days after the applicant has been notified by the department of the results of the department's review. If supported by substantial evidence, findings of fact by the department are final.

II. REGULATIONS THAT APPLY TO THE REVIEW

4 AAC 52.750
Administrative Appeal

A district may appeal a decision of the department concerning its eligibility for, or the amount of, financial aid under 4 AAC 52.700 - 4 AAC 52.740 in accordance with 4 AAC 40.010 - 4 AAC 40.050.

4 AAC 52.710
Federal Financial Aid

(a) Each district providing special education and related services may apply for federal financial aid under P.L. 89.313 or P.L. 94.142 in accordance with 4 AAC 06.120 and this section.

(b) An application must be submitted, on a form provided by the department, to the Department of Education, Division of Educational Program Support, 801 W. 10th St., Suite 200, Juneau, Alaska 99801.

(c) Each application must contain, in addition to other information determined necessary by the department, a statement of assurance that the district will perform the services described in the application in accordance with this chapter and applicable state and federal law.

(d) The department will notify a district of the action taken on its application with 30 days after receipt of the application. Approval by the department must be received before commencement of activities.

(e) A district applying for financial aid under this section shall submit, on a form provided by the department, a statement of the number of children receiving special education and related services in each of the categories set out in 4 AAC 52.130. In addition

(1) a district applying under 20 USC 1221-1226 (Elementary and Secondary Education Act of 1965, P.L. 89-313), as amended in 1988 by P.L. 100-297 shall submit the statement before December 16 of the school year preceding the school year for which application is made and shall include information as of December 1 of that year;

(2) a district applying under P. L. 94-142 shall submit the statement before December 16 of the school year preceding the school year for which application is made and shall include information as of December 1 of that year.

(f) A district that has been determined eligible for financial aid under P. L. 89-313 or P. L. 94-142 shall submit, on a form provided by the department, a quarterly financial report within 30 days after the end of each quarter, and a project description report within 30 days after the close of any activity for which financial aid is provided under this section.

(g) A district that has been determined eligible for financial aid under P. L. 89-313 shall submit, on a form provided by the department, a report of children who received special education and related services and who have also received, or are expected to receive, special education and related services for a city or borough school district before July 1 following the school year for which financial aid is provided under this section.

4 AAC 40.010
Purpose and Application

(a) The provisions of this chapter apply to decisions of the Department of Education to deny or withhold payment or distribution of money appropriated to the department under AS 14, AS 23.15.010 - 23.15.210, or AS 44.27 for payment to school districts and other applicants.

(b) The purpose of this chapter is to provide a process for a school district or other applicant that believes money to which it is entitled had been denied or withheld by the department to appeal that action.

(c) The provisions of this chapter do not apply if a specific process for appeal of a decision of the department is set out elsewhere in statute or regulation.

4 AAC 40.020
Notice of Appeal

(a) After receiving notification from the department of final action, the district or other applicant must notify the commissioner of its decision to appeal by registered mail within 30 days after receipt of notice of the action being appealed.

(b) The notice of appeal must contain
  (1) the decision being appealed;
  (2) the alleged violation of law, regulation or guideline upon which the appeal is based;
  (3) the factual arguments supporting the allegation of the district or other applicant; and
  (4) the specific relief sought.

(c) The notice of appeal must be signed
  (1) by the superintendent, if the appeal is filed by a district; or
  (2) by the chairman or presiding officer of the board, committee, or organization making application, if the appeal is filed by an applicant other than a district.

4 AAC 40.030
Administrative Review

(a) Within five working days after receipt of the notice required under 4 AAC 40.020(a), the commissioner will appoint a person to act as a designee to review the factual issues with respect to the appeal.

(b) Within 10 working days after an appointment, the commissioner's designee will make a decision to grant or deny the relief sought, and provide the district or applicant a copy of that decision. The decision of the commissioner's designee must be based upon
  (1) the information provided in the notice of appeal; and
  (2) records of the department.

NOTE: If the State Education Agency (SEA) does not rescind its final action after a review, the applicant may appeal to the Secretary of Education. The applicant shall file a notice of the appeal with the Secretary within 20 days after the applicant has been notified by the SEA of the results of the agency's review. If supported by substantial evidence, findings of fact of the SEA are final.

Each SEA shall make available at reasonable times and places to each applicant all records of the agency pertaining to any review or appeal the applicant is conducting, including records of other applicants.

4 AAC 40.040
Hearing

(a) A district or other applicant may request a formal hearing on the decision of the commissioner's designee under 4 AAC 40.030(b) if the commissioner's designee does not grant the relief sought.

(b) The request for hearing must be in writing, must be transmitted to the department by certified mail, and must be received by the department no later than 15 calendar days after the date the district or applicant received the decision under 4 AAC 40.030(b). The request must set our

(1) the list of exhibits the district or applicant intends to introduce at the hearing;

(2) names of persons to be called as witnesses at the hearing; and

(3) whether the district or applicant will be represented by counsel.

(c) Within 10 days after receipt of the request for hearing made under (a) of this section, the commissioner will appoint a hearing officer who is not an employee of the department.

(d) Within five days after appointment, the hearing officer will establish a date by which the department must provide to the party taking the appeal a list of exhibits it intends to introduce and a list of persons it intends to call as witnesses, and a date, time, and place for the hearing. In no event, unless all parties consent, will the date of the hearing be more than 30 days after the request made under (a) of this section is received by the department.

(e) The hearing will be recorded and will be conducted according to the following rules of evidence:

(1) oral evidence may be taken only an oath or affirmations;
(2) each party or party's counsel, but not both, may call and examine witnesses, introduce exhibits, cross-examine opposing on matters relevant to the issues even though those matters were not covered in the direct examination, impeach a witness regardless of which party first called the witness to testify, and rebut the evidence against that party;
(3) the hearing need not be conducted according to technical rules relating to evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a court rule which makes improper the admission of the evidence over objection in a civil action; hearsay evidence may be used to supplement or explain direct evidence but is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action; the rules of privilege are effective to the same extent that they are recognized in a civil action; irrelevant and unduly repetitious evidence may be excluded;
(4) the burden of proof is on the party making the appeal; the burden of persuasion is by a preponderance of the evidence.

(f) The hearing officer will submit a report and recommended decision to the commissioner in the form required by AS 44.62.510 within 15 working days after the hearing officer receives the hearing transcript.

(g) The commissioner will notify the district or applicant by certified mail of the commissioner's decision on the appeal, including findings of fact and reasons for the ruling. The commissioner will notify the district or applicant of the hearing officer's decision within 10 working days after receipt of the hearing officer's report and recommended decision, except that in the case of a decision involving an applicant for special education federal aid under PL 89-313 or PL 94-142, as set out in 4 AAC 52.710, the commissioner will notify the district or applicant of the hearing officer's decision within 10 calendar days after receipt of the hearing officer's report and recommended decision. (Eff. 10/16/81, Register 80; am 2/11/89, Register 109)

Authority : AS 14.07.060
AS 14.17.200

(h) Repealed 2/11/89.

(i) Repealed 2/11/89.

(j) Expenses incurred by the district or other applicant with respect to the hearing are the sole responsibility of the district or applicant (Eff. 10/16/81, Register 80; am 2/11/89, Register 109)

Authority: AS 14.07.060
AS 14.17.200

4 AAC 40.045

Review by State Board of Education

(a) A district or other applicant whose appeal has been denied by the commissioner under 4 AAC 40.040(g) may request the board to review the decision of the commissioner.

(b) A district or applicant who seeks board review under (a) of this section must file a request for board review within 10 working days after its receipt of notice under 4 AAC 40.040(g). A request for board review must be in writing and must be filed with the commissioner or with the boards executive assistant.

(c) Upon review, the board will, in its discretion, reverse, affirm, or modify the decision of the commissioner. The board will take that action at the next regular meeting of the board, or within 60 days after receipt of the request under (b) of this section, whichever is later. A request upon which the board has not acted within that time is deemed denied.

(d) The decision of the board is subject to review in the manner provided by AS 44.62.560.

4 AAC 40.050.
Definitions

In this chapter

(1) "board" means the State Board of Education;
(2) "commissioner" means the commissioner of education;
(3) "department" means the Department of Education'
(4) "district" means a school district.
(Eff. 10/16/81, Register 80)

CHAPTER XIV
ANNUAL EVALUATION

I. GENERAL STATEMENT.

It is the policy of the Department of Education to conduct on-site visitations of each school district on a five year cycle for the purpose of monitoring school district programs to ensure compliance with state and federal requirements and with assurances given upon application for state and federal financial aid. Also, the Department of Education has procedures for evaluating special education programs annually, including evaluating the effectiveness of IEPs.

EVALUATION PROCEDURES

Evaluations of the effectiveness of special education programs including the evaluation of IEPs are conducted by school districts and submitted to the department for review. The procedures are to be followed by the department for the conduct of evaluations of programs and IEPs are as follows:

1. Each district will conduct an annual evaluation of the effectiveness of its special education program including the effectiveness of IEPs.

2. Districts shall include the results of the annual evaluation in their application for Part B or PL 89-313 funds.

3. The department will review the evaluation section of each application. The department will approve all evaluations which receive an affirmative answer to each of the following questions:

   a. Was an evaluation of the special education program conducted?

   b. Did the district also evaluate the effectiveness of IEPs?

   c. Were the results of the annual evaluation summarized?

d. Were the results of the evaluation of the effectiveness of IEPs summarized?

e. Were the evaluation results sufficient to provide the district with information necessary to make program or IEP improvements?

f. Was the evaluation methodology used to evaluate programs and IEPs stated in the application?

4. For those districts not receiving and affirmative answer to each of the above questions, appropriate suggestions for improvement will be made.

5. If, as a result of the department review of a district's evaluation of programs and IEPs, a district evidences significant shortcomings in its evaluation, the department may provide other forms of technical assistance as warranted.

II. REGULATIONS

4 AAC 52.770
Program Review

(a) The Department will monitor school district programs to insure compliance with state and federal requirements and with assurances given upon application for state or federal financial aid.

(b) Upon request by the department, a district shall provide

(1) a list of students receiving services under this chapter, including each student's name, age, exceptionality, type of service, related services, entry date, exit date, and placement;
(2) a list of all administrators, teachers, teacher aides, and related services personnel who provide special education services in the district;

(3) a list of all persons or agencies within the district from which independent evaluations may be obtained;
(4) any other information required by the Department.

(c) At least 30 days before visiting a district, the Department will provide written notice to the district of the date and purpose of the visit.

(d) The Department will submit written results of program monitoring to the district within 30 days after completion of a visit under (a) of this section. The written results will include a statement of necessary corrective action.

(e) If the Department determines that a district is substantially out of compliance with the requirements of this chapter or with assurances given upon application for state or federal financial aid, it will conduct an audit under 4 AAC 52.780.

4 AAC 52.780
Entitlement Review

(a) The Department will, in its discretion, conduct an entitlement review of the records of a district at any time, notwithstanding the results of one or more program reviews under 4 AAC 52.770, to insure compliance with the requirements of this chapter and with assurances given upon application for state or federal financial aid.

(b) The Department will submit preliminary entitlement review findings to the district within 30 days after completion of the audit.

(c) The district may submit to the Department a written response to the preliminary entitlement review findings within 30 days after receipt of the findings by the district.

(d) Within 15 days, after receipt of the response of a district to preliminary entitlement review findings, the Department will, in its discretion, or the district may pursue additional means to resolve any issues in dispute between them.

(e) After expiration of the period set out in (d) of this section, the Department will issue final entitlement review findings. The final entitlement review findings are subject to appeal under 4 AAC 52.750.

CHAPTER XV
DESCRIPTION OF USE OF PART B FUNDS
FY 1995, 1996 and 1997

I. DEPARTMENT OF EDUCATION POSITIONS INCLUDING PERCENTAGE OF SALARY AND DUTIES

Education Specialist II - (95%)

- State Director of Special Education
- Monitoring of Part B, Section 619, and P.L. 89-313 programs and complaint resolution.
- Provide technical assistance to LEAs to increase quality and effectiveness of programs
- Education consultant on exceptional children.
- Revise and amend State regulations as necessary.
- Plan for program standards in each handicapping area.
- School Psychology Consultant

Educational Specialist II - (90%)

- Monitoring of Part B, Section 619 and P.L. 89-313 programs and complaint resolution.
- Educational consultant on exceptional children.
- Determine what criteria apply to best practice.
- Administer SEA Medicaid Project.
- Administer State programs for Seriously Emotionally Disturbed,
  Gifted, Section 619, Other Health Impaired, and Mentally Retarded.
- Revise and amend Part B State Plan.
- Child count for Part B and P.L. 89-313.

Education Specialist II - (95%)

- Monitoring of Part B, Section 619 and P.L. 89-313 programs, and complaint resolution.
- Provide for in-service training at LEA level.
- Student transfers to public and private agencies where the LEA cannot provide a FAPE.
- Consultant on Adaptive Assistive Technology.
- Educational consultant on autism, hearing impaired, and speech impaired.
- State CSPD Coordinator.
- State Transition Coordinator.

Education Specialist II - (95%)

- Monitoring of Part B, Section 619 and P.L. 89 - 313 programs, and complaint resolution.
- Education consultant on exceptional children.
- Consultant for State contracts for education of low incidence handicapped students.

Clerk Typist III - (10%)

- Receives and compares reimbursement request to on-line subgrant system.
- codes to correct financial code.

Clerk Typist III - (100%)

- General clerical duties for director and other Education Specialist II's.

Grant Administrator II - (80%)

- Part B and Section 619 program applications management.
- Part B and Section 619 grants to local education agencies.
- Part B discretionary grant administration.

II. DESCRIPTION OF EACH ADMINISTRATIVE ACTIVITY USING PART B FUNDS:

The specific administrative activities carried out using Part B funds are described under the duties of the administrators listed previously.

A more general description of the administrative activities include the following:

(a) Administration of the annual program plan and for planning at the State level, including planning, or assisting in the planning, of programs or projects for the education of children with disabilities;

(b) Approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of children with disabilities;

(c) Technical assistance to local educational agencies with respect to the requirements of this part;

(d) Leadership services for the program supervision and management of special education activities for children with disabilities; and

(e) Other State leadership activities and consultative services.

III. DESCRIPTION OF SUPPORT AND DIRECT SERVICE ACTIVITIES:

- *Alaska Youth Initiative* - a program to serve emotionally disturbed students in their home communities.
- *Alaska State School for the Deaf* - a residential program to service deaf children.
- *Special Education Conference* - an annual state-wide conference on special education.
- *Special Education Parent Resource Center* - a statewide network to provide parents of children with disabilities with training and support.
- *Comprehensive System of Personnel Development* - a variety of activities including paraprofessional training, early childhood education training, and teacher recruitment.
- *Task Force on Special Education Eligibility Criteria* - This activity involves the review and revision of all state special education eligibility criteria.
- *Task Force on Culturally Different Students in Special Education* - This is an ongoing task force which investigates the appropriateness with which culturally different students, particularly Native students, are being placed in special education classes.
- *Transition Planning Training* - This involves the development of training materials and the provision of training to LEAs on the implementation of transition plans as required under IDEA.
- *Rural Delivery Model* - A variety of activities will be conducted to research, develop, and pilot an effective rural delivery model for special education in Alaska.
- *Special Education Regulation Review*- A committee which is reviewing current special education regulations and the funding mechanism.

IV. DESCRIPTION OF THE ACTIVITIES OF THE STATE ADVISORY PANEL:

The Governor's Council on Disabilities and Special Education serves as Alaska's Special Education Advisory Panel. Part B funds partially support the Council's meetings, including Education Committee meetings and teleconferences at which educational issues are addressed. Part B funds are also used to support a variety of parent training and support activities.

V. NUMBER OF DISTRICTS RECEIVING TITLE VI-B ALLOCATIONS

Alaska has 54 school districts. 19 districts will receive allocations and 15 districts will receive allocations under a consolidated applications. Alaska has two consolidated applications: one consists of 12 LEAs and the other consists of 3 LEAs. The remaining districts are State supported programs and are funded under the State Operated Programs section of the Chapter I Handicapped Program (P.L. 89-313).

VI. DIRECT SERVICES THE SEA PROVIDES:

The State of Alaska provides no direct services to children with disabilities.

VII. LOCAL EDUCATION AGENCY ALLOCATIONS:

IN FY 1995-1997, Alaska will pass through seventy-six percent (76%) of the Title VI-B Grant funds to LEAs and retain twenty-four (24%) for discretionary and administrative funding. In addition to the $450,000 allowed for administration, we will retain up to 10% of the discretionary funds for increased costs associated with monitoring and complaint investigation activities.

The $450,000 administrative allowance continues to be eroded by increases in staff salary and travel cost increases as well as additional requirements of OSEP. Alaska will have sufficient discretionary money available to the SEA to carry out planned statewide activities using the additional ten percent (10%) for specific monitoring and complaint resolution duties. In the event that these funds are not needed by the SEA, they will be added back to the discretionary fund account to be used for additional statewide training and technical assistance.

CHAPTER XVI
ADDITIONAL INFORMATION

I. DIRECT SERVICES BY SEA

The Alaska Department of Education provides no direct services to children.

II. LEA APPLICATIONS

Each school district in Alaska is provided with the "Grants Administration Manual", which is designed by the Alaska State Department of Education to assist districts in developing program activities, writing applications, managing grants and claiming financial reimbursement. The "Grants Administration Manual" describes the procedures applicants will follow when submitting applications for EHA-B funds. The manual describes the requirements of EDGAR for program approval of LEA applications.

In order for an Alaska school district to apply for Title VI-B Disabled Funds, the district must complete the "Application for P.L. 94-142 Title VI-B Funds". The application form and the instructions for completing that form are sent to eligible school districts each year. The application must describe the procedures for complying with federal and state requirements for serving children with disabilities.

The Alaska Special Education Handbook for Serving Students with Disabilities contains all of the requirements for a local application. A district may choose to adopt the entire handbook, it may adopt parts of the handbook and develop procedures for those parts of the handbook not adopted or it may choose not to adopt any of the handbook and develop its own procedures. However, it is required that the district have procedures which are in compliance with federal and state requirements and which are approved by the Department. Consequently, if a district chooses not to adopt a procedure in the handbook, it must develop a different procedure which must be approved by the Department.

The staff of the AKSDE reviews the "Application for P.L. 94-142 Title VI-B Funds", using the "LEA Application Checklist". Only those applications that meet all of the requirements described in the P.L. 94-142 regulations are approved for funding.

CHAPTER XVII
INTERAGENCY AGREEMENTS

The Alaska Department of Education develops and implements Interagency Agreements with other state and Local Education Agencies as necessary to meet the needs of Alaska's children with disabilities from birth through twenty-one years of age.

For the duration of this plan, all Interagency Agreements developed will:

(1) define the financial responsibility of each agency for providing FAPE;
(2) include procedures for resolving interagency disputes among agencies that are parties to these agreements;
(3) include procedures under which LEAs may initiate proceedings to secure reimbursement from agencies that are parties to the agreements or otherwise implement the agreement.

An interagency agreement format to be used by all LEAs has been developed and included in The Alaska Special Education Handbook. (See Appendix C) Initial or updated interagency agreements will be developed as needs are identified during the duration of the plan.

The Alaska Department of Education currently has an interagency agreement with the Department of Health and Social Services relating to P.L. 94-142 and P.L. 99-457. LEAs throughout the state have a variety of interagency agreements with agencies such as the Department of Vocational Rehabilitation, Headstart, Infant Learning, and Community Mental Health.

As a result of the changes in IDEA, which have added transition planning as a required part of IEPs, appropriate interagency agreements related to transition planning have been completed.

An interagency agreement between the Department of Education and Mental Health has been developed regarding the Alaska Youth Initiative.

CHAPTER XVIII
PERSONNEL STANDARDS

I. GENERAL STATEMENT

It is the policy of the State of Alaska that each person employed by a school district to provide special education or related services to children with disabilities meet appropriate professional requirements in the State. "Appropriate professional requirements in the state" means entry level requirements that are based on the highest requirements in the State applicable to the profession or discipline in which a person is providing special education or related services, and that establish suitable qualifications for personnel providing special education and related services to children with disabilities who are served by State, local and private agencies. "Highest requirement" means the highest entry level academic degree needed for any State approved or recognized certification, licensing or registration. "Professional or discipline" means a specific occupational category that provides special education and related services to children with disabilities has been established or designated by the State, and has a required scope of responsibility and degree of supervision. "State approved or recognized certification, licensing, registration, or other comparable requirements" means the requirements that a State legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in the State.

AUDIOLOGY

Certified

Holds Type C certificate from DOE under 4 AAC 12.040 valid for 5 years.

Can work with students K-12 only.

Must be supervised in practice.

May work in schools only.

Must be under contract by school district.

Must have completed university approved program of training.

Needs 6 semester hours continuing ed credit every 5 years.

Subject to education code of ethics.

Holds a Certificate of Clinical Competency in Audiology from the American Speech-Language-Hearing Association (this requires a Masters Degree).

Licensed

Holds license under AS 08.11.010 valid for 5 years.

May practice privately.

May hold business license.

Works with all ages of clients.

No need for supervision.

Holds a Certificate of Clinical Competency in Audiology from the American Speech-Language-Hearing Association (this requires a Masters Degree).

Subject to professional code of ethics.

Holds MA or Ph.D from accredited institute or practice.

PSYCHOLOGIST

Certified

Can work with K-12 students and their families only.

Must hold Type A or C certificate under 4 AAC 12.040 valid for 5 years.

Must be supervised in practice by a Ph.D level psychologist.

May work in schools only.

Must be under contract with school district.

Requires MA degree with internship and university training program approval.

Need 6 semester hours of training every 5 years.

May only perform educational psychology techniques such as intellectual assessments and counseling. Such techniques as psychoanalysis or psychotherapy would only be done by a licensed psychologist.

Licensed

May work with all ages and disabilities.

May practice privately.

Must hold MA (Psy. Associate) or Ph.D (Psychologist).

Must complete 1500 hours post-doctoral internship.

Must pass State Licensing Board exam.

Must adhere to ethics of American Psychological Association.

Must obtain 30 Continuing Education Units every 2 years.

May employ any psychological technique for which supervised training has been obtained.

Holds a Certificate of Clinical Competency in Audiology from the American Speech-Language-Hearing Association (this requires a Masters Degree).

Personnel standards for special educators in Alaska are maintained through the credentialing and licensing process. The Teacher Certification Office maintains records of all regulations regarding certification and licensing of school personnel in Alaska. The Office also maintains records of all people who hold teacher certification in Alaska. In addition, records indicate which individuals are issued emergency and waiver certificates. The status of all special education personnel in a district is monitored by special services staff during onsite compliance monitoring visits. Each school district is required to provide a program for ongoing training of all personnel employed as special education service providers. This program must incorporate and use the Alaska Comprehensive System of Personnel Development training priorities.

II. STATUTES

Sec. 14.20.010.
Teacher certificate required.

A person may not be employed as a teacher in the public schools of the state unless that person possesses a valid teacher certificate except that a person who has made application to the department for a teacher certificate or renewal of a teacher certificate which has not been acted upon by the department may be employed as a teacher in the public schools of the state until the department has taken action on the application, but in no case may employment without a certificate last longer than three months.

Sec. 14.30.250.
Teacher qualifications.

A person may not be employed as a teacher of exceptional children unless that person possesses a valid teacher certificate and, in addition, such training as the department may require by regulation.

Sec. 14.30.255.
Administrator qualifications.

A person may not be employed as an administrator of a program of special education and related services unless that person possesses a valid administrative certificate and, in addition, such training as the department may require by regulation.

Sec. 14.30.270.
Substitutes.

AS 14.30.250 does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute teacher of exceptional children.

III. REGULATIONS

4 AAC 12.010.
Certification of teachers

(a) A teacher in a public school or state-approved nonpublic school must be at least 18 years of age, and must hold a valid Alaska teacher's certificate issued under this chapter unless the teacher is participating in an approved exchange program under 4 AAC 30.010.

(b) The following shall be submitted by teachers in applying for a certificate:

(1) completed application; must be signed and notarized;
(2) official transcripts of all college work;
(3) certificate fee; and
(4) for applicants for whom a background check is required by statute, two completed fingerprint cards, with fingerprinting performed by a law enforcement agency or a person who has been trained in recording fingerprints, for separate submittal to the Department of Public Safety and the Federal Bureau of Investigation.

(c) Transcripts and other required documents shall become a part of the teacher's permanent records and shall remain on file with the Department of Education.

(d) Certificates shall be dated as of the date the completed application, transcripts, experience record, and fee are received, and shall remain effective until the expiration date indicated on the certificate.

(e) Except as provided in AS 14.20.010, neither the state nor a school district may pay a salary to any teacher who does not hold a valid Alaska teacher certificate.

(f) Nonpublic schools which employ non-certificated teachers shall not be approved by the state, or if approved, shall be dropped from the register of approved schools.

(g) Fees must be paid at the time of application and are non-refundable. Fees for certificates and endorsements are as follows:
   (1) the fee for initial issuance of a teacher certificate, including all endorsements is $125;
   (2) the fee for renewal of a teacher certificate, including all endorsements, is $125;
   (3) the fee for addition or deletion of an endorsement other than at time of initial issuance of certificate is $10;
   (4) the fee for a certified copy of a teacher certificate is $5;
   (5) the fee for a temporary certificate is $20.

(h) Repealed 7/1/90.

(i) An applicant for a certificate shall, on the application, disclose a suspension or revocation of a certificate by this or another state. A teacher who has been issued a certificate by this state shall immediately notify the department of suspension or revocation of a certificate issued by another state. Failure to inform the department of a suspension or revocation as required by this subsection may result in denial or revocation of a certificate.

(j) Repealed 7/1/90

(k) Any misrepresentation or willful omission of information on a certification application may result in denial or revocation of the certificate.

(l) The department may deny an application for issuance or renewal of a teacher certificate for any reasons that is cause for revocation or suspension of certificate under AS 14.20.030.

(m) The cost to an applicant for a criminal history background check is the amount charged to the department by the Department of Public Safety as set out in 13 AAC 25.400

4 AAC 12.020.
Regular certificate (Type A)

(a) The regular certificate, valid for five years, shall be issued to an applicant who

(1) has completed a teacher education program approved by the Alaska State Board of Education, has a bachelor's degree, and is recommended by the preparing institution; or

(2) has completed a comparable program in another state and is recommended by the preparing institution or the certifying state agency.

(b) Except as otherwise provided by 4 AAC 12.042, the applicant must have earned at least six semester hours of credit within the five years immediately preceding application.

(c) Repealed 4/9/87.

(d) Repealed 4/9/87.

4 AAC 12.025
Certification for teachers providing special education

(a) A person employed by or on behalf of a school district to teach special education to children with disabilities must possess a Type A teacher certificate issued under 4 AAC 12.020 with an endorsement based upon completion of an approved teacher training program in special education.

(b) A person who has the primary responsibility for the evaluation of, the planning of educational programs for, or the teaching of or training of staff to teach children who are visually impaired or deaf must have an endorsement in the education of children with the relevant impairment.

(c) A person employed by or on behalf of a school district to teach special education to preschool children with disabilities, who does not hold an endorsement in preschool disabilities education must, in addition to the requirements in (a) of this section, complete 7-1/2 hours of in-service training in early childhood special education before or during the first year of employment in teaching preschool children with disabilities. This subsection is repealed July 1, 1993.

(d) Effective July 1, 1993, a person employed by or on behalf of a school district to teach special education to preschool children with disabilities, who does not hold an endorsement in preschool disabilities education, must have completed six semester hours in early childhood special education in addition to the requirements in (a) of this section. (Eff. 7/16/89, Register 111)

4 AAC 12.035.
Certification for administrators of special education

Each person employed solely to administer a special education program must possess:

(1) both a Type B certificate issued under 4 AAC 12.030 and a Type A certificate issued under 4 AAC 12.020 endorsed for special education or for a related services specialty; or
(2) a Type B certificate issued under 4 AAC 12.030 endorsed for special education or a related services specialty.

4 AAC 12.040.
Special services certificate (Type C)

(a) A special services certificate, valid for five years, may be issued to an applicant who has completed a program in a special service area, has a bachelor's or higher degree, and is recommended by the preparing institution.
  (1) Repealed 8/30/75.
  (2) Repealed 8/30/75.

(b) Except as otherwise provided by 4 AAC 12.042, the applicant must have earned at least six semester hours of credit within the five years immediately preceding application.

(c) Repealed 4/9/87.

(d) A special services certificate does not qualify the holder to be assigned as a regular classroom teacher.

(e) Repealed 4/9/87.

(f) Notwithstanding 4 AAC 12.075, a special services certificate endorsed in "school psychology" may be renewed any number of times if an applicant provides evidence of

  (1) satisfactory service obtained during the life of the certificate; and
  (2) completion of a minimum of 90 contact hours in the areas of assessment, evaluation, intervention, program planning, program development, or staff or program administration in

    (A) accredited college or university course work;
    (B) workshops, seminars, or institutes;
    (C) school district or university sponsored in-service training programs;
    (D) college training; or
    (E) workshop or seminar teaching.

(g) A certificate or endorsement in "school psychology" issued before the effective date of (f) of this section may be renewed once subject to the requirements in effect at the time the certificate or endorsement was issued.

AIIM

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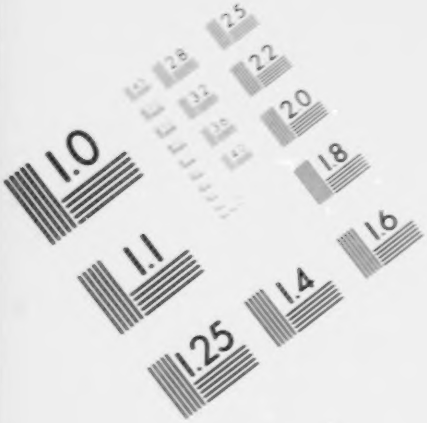

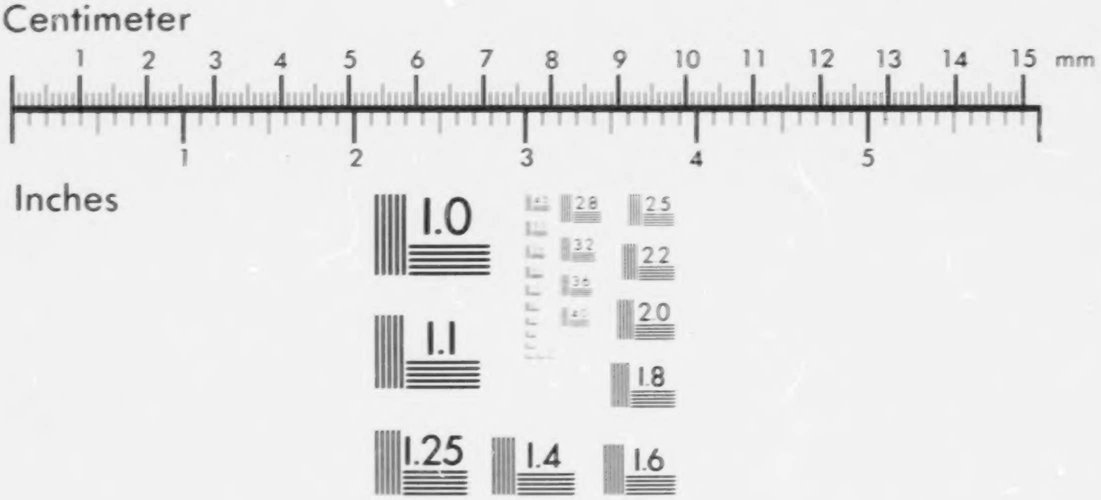

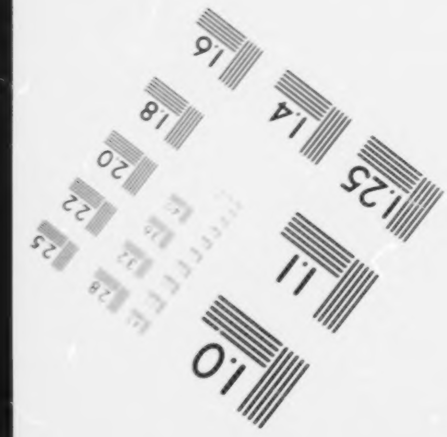

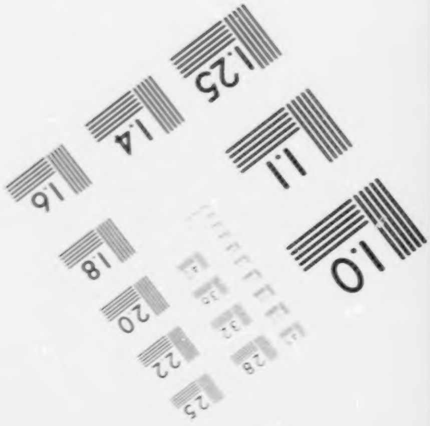

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4 AAC 12.060.
Endorsements

(a) Upon recommendation of the applicant's preparing institution of the certifying state agency of another jurisdiction, the department may endorse a Type A Certificate in one or more of the following areas:

(28) Special Education
  (A) deaf education
  (B) learning disabilities
  (C) mentally retarded
  (D) physically handicapped
  (E) speech and hearing
  (F) visual
  (G) emotionally disturbed
  (H) adaptive physical education
  (I) gifted and talented education
  (J) orientation & mobility
  (K) speech communication
  (L) speech pathology
  (M) self-contained classroom

(b) Upon recommendation of the applicant's preparing institution or the certifying state agency of another jurisdiction, the department may endorse a Type B certificate in one or more of the following areas:

  (1) community education director
  (2) principal
  (3) superintendent
  (4) supervisor
  (5) director special education

(c) Upon recommendation of the applicant's preparing institution or the certifying state agency of another jurisdiction, the department may endorse a Type C certificate in one or more of the following areas:

- (1) audiology
- (2) occupational therapy
- (3) physical therapy
- (4) recreation
- (5) school nursing
- (6) school psychology
- (7) school psychometry
- (8) social work
- (9) speech pathology
- (10) counselor
  - (A) drug abuse
  - (B) rehabilitation
  - (C) social counselor
- (11) library science - media

(d) For the "school psychologist" endorsement, the applicant must hold a master's or higher degree and

- (1) be recommended for the endorsement by an institution whose school psychology program has been approved by the National Council for Accreditation of Teacher Education, the National Association of State Directors of Teacher Education and Certification, or the American Psychological Association, and have completed a 1200-hour internship in school psychology, 600 hours of which must be completed on-site in preschool or kindergarten - grade 12 programs; or
- (2) Be a nationally certified school psychologist under the National School Psychologist Certification System established by the National Association of School Psychologists.

(e) For the "speech", "language", or "hearing" endorsement, the applicant must

(1) either

(A) hold a master's or higher degree with major emphasis in speech-language pathology, audiology, or speech-language and hearing science; or

(B) posses certification of clinical competence from the American Speech-Language-Hearing Association; and

(2) be recommended for the endorsement by an institution whose program has been accredited by the National Council for Accreditation of Teacher Education or the National Association of State Directors of Teacher Education and Certification or approved by the American Speech-Language-Hearing Association.

(f) Upon written request of the certificate holder and payment of the required fee, and upon written representation by the holder that he or she is not currently under contract in a position in which the endorsement is required, the department may remove and endorsement from a certificate. Once removed, an endorsement may be added again only if the applicant pays the required fee and meets the current requirements for issuance of the endorsement.

4 AAC 12.065.
Emergency certificate

At the request of a school district seeking to employ a person in a position for which a Type A or Type C certificate is required, the commissioner may issue an emergency Type A or Type C certificate, valid for a period not exceed the end of the school year in which it is issued, to a person not otherwise qualified if the district demonstrates to the satisfaction of the commissioner that, despite diligent efforts, including advertising in one or more newspapers of general circulation, it has been unable to fill the position with a qualified person holding the required certificate. The holder of an emergency certificate issued under this section is a "certificated employee" under AS 14.20.550 - 14.20.555.

Plan for eliminating the need for emergency certification

The Department is committed to eliminate the need for emergency certification for teachers of students with disabilities. To that end, the Department is engaged in a three-stage process which will (1) eliminate emergency certifications and replace them with waivers, (2) provide training for teachers holding waivers which will lead to full certification, and; (3) eliminate the waiver certification,

Eliminate Certification - The Department will submit to the State of Alaska Seventeenth Legislature, statute changes which will eliminate the Emergency Certification. Districts unable to secure teachers with appropriate certification must use special education waivers described below.

Assuring training of a teacher holding a special education waiver will be a responsibility of the Alaska Comprehensive System of Personnel Development (CSPD) described in Part 2, Section X. The CSPD will undertake a study of the training needs of teachers with waivers and design a plan for meeting their training needs.

Timeline for Elimination of Emergency Certifications

October 12, 1991	CSPD Committee undertakes study of issue training for teachers holding special education waivers.
January 15, 1992	Submit regulation changes to legislature which would eliminate emergency credential.
February 8, 1992	CSPD Committee implements training plan for teachers holding special education waivers.
June 18, 1992	Regulation change eliminating emergency credential complete.
September 4, 1992	Emergency credential eliminated and training plan for holders of special education waivers in place.

Notification Procedures for Elimination of Emergency Certification

The Department will provide public notice of the changes regarding emergency certification as required by AS 44.62.190 for all changes in regulations of statutes. Additionally, the CSPD Committee will notify teachers of the changes and the Office of Special & Supplemental Services will do a mailing to all LEA special education directors.

Eliminating the waiver

The waiver certification will be eliminated by September 1, 2000. This will be a joint activity of the Department and the CSPD committee. The CSPD committee, in conjunction with the Department will design a ten-year detailed plan including timelines for eliminating the waiver certification. The ten-year plan will be developed during the 1991-92 school year at the two regularly scheduled meetings of the CSPD committee and submitted to the U.S. Department of Education by June 30, 1992.

4 AAC 12.062.
Special education endorsement waiver

(a) Notwithstanding 4AAC 12.025, if a school district superintendent is unable to hire as a teacher of disabled students, a person who holds a valid Type A teacher certificate with a special education endorsement, the superintendent may instead hire a person who holds a valid Type A teacher certificate but who is not eligible to hold a special education endorsement.

(b) A teacher who is employed under (a) of this section to teach disabled students shall apply to the Department of Education, Teacher Certification Office, 801 W. 10th St., Suite 200, Juneau, Alaska 99801, for a special education endorsement waiver.

(c) An application for special education waiver endorsement must include:
  (1) proof of employment in special education from a school district;
  (2) a letter form the school district superintendent justifying the applicant's hire;
  (3) proof of full or conditional admission to an accredited teacher training program leading to special education certification or endorsement; or
  (4) official transcripts and a letter from the university training program stating that the applicant has completed a minimum of 9 semester or 12 quarter hours of special education coursework and can complete the training program as described within three years.

(d) A special education endorsement waiver is valid for one school year, and is renewable, on a yearly basis, for two consecutive years upon submission of evidence from the university training program that the applicant continues to be enrolled, is making satisfactory yearly progress, and can complete the program within the specified three years.

(e) A holder of a special education endorsement waiver who moves to another school district to teach special education shall reapply to the department for reissue of the waiver. No extension of time on the waiver will be granted.

(g) This section is repealed July 1, 1996.

Emergency Certification is for one year; rarely, if ever, does a district ask that a person be given a second emergency certificate. The person is replaced by a fully qualified and certificated staff person.

The Special Education Endorsement Waiver is the means for hiring a person who does not have all of the qualifications required for teaching special education. The regulation includes a demand for continuation of training in special education in order for the individual to continue being employed under the waiver.

The waiver regulation was adopted by the State Board of Education in summer 1990 but was on hold in the Department of Law during FY 91. It is now on its to the Lieutenant Governor for signature and we expect to see an effective date of August 1991.

4 AAC 12.075.
Renewal of certificates.

(a) A certificate issued under 4 AAC 12.020, 4 AAC 12.030, or 4 AAC 12.040 may be renewed any number of times by presenting six semester hours of credit, or their equivalent as determined by the department, earned during the life of the certificate. At least three semester hours must be upper division or graduate credit. Up to three semester hours may be continuing education units or, with prior written approval of the commissioner, nonacademic credit.

(b) An applicant for renewal for the first time of a certificate issued after April 9, 1987, who had not completed
(1) three semester hours in Alaska studies, and
(2) three semester hours in multicultural education or cross-cultural communications, before issuance of the certificate, must complete three semester hours in each of those areas before renewal of the certificate. Completion of courses listed in this subsection may be used to meet the requirement of (a) of this section.

4 AAC 52.250.
Special Education Aides

(a) A person employed as a special education aide shall be trained by a special education teacher or specialist certified under 4 AAC 12.025 or 4 AAC 12.041, or licensed under AS 08.84, AS 08.86, or AS 08.11 to provide the services with which the aide will assist.

(b) Before a special education aide assists in providing direct special education or related services to a child or children, or concurrent with providing direct special education services to a child or children, the district must provide and document a minimum of six hours of training; in the aggregate, to the aide regarding
(1) the child's or children's exceptionalities
(2) the content of the IEP's
(3) the instructional and safety procedures to be used; and
(4) confidentiality procedures

(c) Each special education aide employed by the district to assist in providing special education to a child must be supervised on-site at least monthly by the certificated special education teacher responsible for the child's program.

(d) Each special education aide employed by the district to assist in providing related services to a child must be supervised on-site at least monthly by the certificated or licensed related services provider responsible for the child's program.

4 AAC 52.252
Program Supervision

(a) Each special education program provided to a child through the assistance of a certificated regular education teacher must be reviewed on-site at least monthly by the certificated special education teacher responsible for the child's program.

(b) Each related services program provided to a child through the assistance of a certificated regular or special education teacher must be reviewed on-site at least monthly by the certificated or licensed related services provider responsible for the child's program.

4 AAC 52.255
Interpreters

An interpreter provided as part of a program of special education and related services for an exceptional child who is deaf must be certified by the National Registry of Interpreters for the Deaf, or must be approved by the department after the department considers standards developed by the Board of Education's Advisory Board for the Deaf and Hard of Hearing.

4 AAC 19.020.
Scope of evaluation

The evaluation should emphasize such factors as teaching or administrative skills, processes and techniques and interpersonal relationships with students, parents, peers and supervisors, as well as those additional factors which the school district considers relevant to the effective performance of its professional employees. The standards for performance must be measurable and relevant.

4 AAC 19.030.
Method for evaluating professional employees

(a) Formal written evaluation of professional employees of each school district must be made at least once per contract year for each certificated staff member, without regard to tenured or non-tenured status, including teacher evaluation of principals and other administrators.

(b) An acknowledgment of content signed by both the evaluator and the person evaluated must appear on all formal evaluation. The person evaluated must be informed that he has the right to review each written evaluation prior to its final submission and comment in writing on any matter contained in it and that he may at his request, retain the evaluation for a reasonable amount of time, but not less than 24 hours, for the purpose of reviewing and commenting upon it. The fact that a person evaluated exercises his right to comment on his evaluation in the manner described may not be used against him. Failure to submit written comments by a person evaluated prior to his acknowledgment of the evaluation constitutes a waiver of this right.

(c) The evaluation may include information other than specific observations of the evaluator. Districts may adopt procedures whereby input such as student's evaluation of teachers, principals' evaluation of administrators, peer and self-evaluations are utilized. The evaluation must clearly indicate that this kind of information has been used and clearly identify the source of information.

(d) The evaluation must be approved by a person who possesses and administrative certificate issued under 4 AAC 12.030.

4 AAC 52.260.
Personnel development

Each school district shall provide a program of on-going training for all general and special education instructional, related services, and support personnel, including teacher aides and as appropriate, bus drivers and bus aides. The program must implement and use the comprehensive system of personnel development established by the department under 34 CFR 300.380 - 387, as those sections exist as of July 1, 1983.

IV. LICENSURE LAWS.

In addition to certificates and endorsements, several professions which provide related services to disabled students in Alaska are governed by licensure laws. These licensure laws are sometimes more stringent than certification and endorsement regulations promulgated by the Alaska Department of Education and are administered and regulated by the Division of Occupational Licensing in the Alaska Department of Commerce and Economic Development.

The professions which are regulated by the Division of Occupational Licensing are audiology, psychology, physical therapy, occupational therapy, and nursing.

(1) Psychology - In Alaska, a person may practice psychology in public schools with a certificate as a school psychologist issued by the Alaska Department of Education. A person practicing school psychology in Alaska must be employed by a public agency and may provide services only to another agency such as an LEA.

The private practice of psychology in Alaska is governed by Alaska Statute in 08.86.180 and requires a license issued by the Division of Occupational Licensing. This private practice includes the provision of psychological services to children with disabilities in schools. Licensure requirements are more stringent than those for certification, requiring, among other things, a doctorate degree, completion of a one year supervised internship, and a passing score on nationally used professional psychology competence test. At the Master's Degree level, three years of supervised internship are required.

(2) Physical Therapy - The practice of physical therapy in Alaska requires a license by the Division of Occupational Licensing under all circumstances including provision of services to children, infants, and toddlers with disabilities. Physical therapy is governed by Alaska Statute 08.84.030 and licensure requires completion of a university or hospital program approved by the Council on Medical Education and Hospitals of the American Medical Association or the American Physical Therapy Association. Applicants must also pass a nationally validated exam prepared by the Professional Examination Service Association. Licensure is at two levels; Registered Physical Therapists (RPT) and Physical Therapy Assistants (PTA). Registered Physical Therapists may practice independently but their services must be prescribed by a physician while PTAs must practice under the supervision of a physician or RPT.

(3) Occupational Therapy - The practice of Occupational Therapy requires a license by the Division of Occupational Licensing. Licensure requires completion of a curriculum of occupational therapy approved by the Committee of Allied Health Education and Accreditation of the American Medical Association, and the American Occupational Therapy Association appropriate to the license being sought. Submission of proof of successful completion and six months of supervised field work approved by the board. Applicants must also pass, to the satisfaction of the board, an examination prepared by a national testing service approved by the board or an examination recognized by the American Occupational Therapy Association to determine the applicant's fitness for practice as an occupational therapist.

(4) Nursing - The practice of nursing in Alaska requires a license issued by the Division of Occupational Licensing under all circumstances including provision of nursing services to children with disabilities, infants, and toddlers in public and private agencies. Nursing is governed by Alaska Statute 08.68.160 and requires that registered nurses complete a university or hospital program approved by the Alaska Nursing Board or accredited by the National League for Nursing and pass a nationally validated proficiency exam. Nurses are licensed at two levels; Registered Nurses (RN) and Licensed Practical Nurses (LPN). Registered Nurses may practice independently while LPNs must be supervised by a physician or RN.

(5) Audiologist - The practice of Audiology requires a license by the Division of Occupational Licensing. Audiology is governed by Alaska Statute 08.11.010 and requires that the applicant holds a master's degree or doctorate in audiology from an accredited educational institution approved by the department. The department also requires a Certificate of Clinical Competence in Audiology from the American Speech-Language-Hearing Association or the equivalent of the certificate.

Licensure requirements for psychologists, physical therapists, and nurses also mandate the accumulation or pertinent continuing education units for license renewal purpose. School psychologist certificate renewal also requires completion of continuing education hours.

In spite of the differences between certification and licensure regulations, and the sometimes more stringent requirements of licensure, it is the opinion of the SEA that Alaska certification requirements are appropriate. In general, the reason for this is that licensure and certification apply to practices which are vastly different in several important respects. Licensure covers a broad spectrum of practice which includes both adults and children and pertains to practice which typically occurs in private settings and for a fee. Certification, on the other hand, concerns only children with disabilities, allows practice only in public agencies and requires the supervision of a school superintendent.

CHAPTER XIX
TRANSITION OF INDIVIDUALS FROM PART H TO PART B

AS 47.20.060 - 47.20.290 mandates services for children with disabilities birth to age 3. AS 14.30.180 provides for an appropriate public education for children with disabilities in the state who are least 3 years of age but less than 22. The Department of Health and Social Services is the designated agency for Part H. (Infant Learning Program). The designated agency for Part B is the Department of Education.

All students in the Infant Learning Program have IFSPs until they transition to school district programs. Districts are required to have IEPs developed and implemented when a child turns 3. Because of this, there is no break in service when a child turns 3. The Interagency Agreement between the Department of Education and Department of Health and Social Services relating to Part B and Part H of IDEA will be revised to state that "the local ILP will provide a referral to the local school district 6 months prior to the third birthday of the child, unless the parent or guardian of the child specifically refuses consent to do so".

APPENDIX A

PART X

COMPLIANCE MONITORING

Sections page

1. Information Needed Prior to Review m-1
2. Maintaining Student Records m-2
3. File Components Form m-4
4. Early Childhood Special EducationRequirement Form m-8
5. Monitoring Checklist m-9

This Part provides a summary of the information the state will look for in monitoring Local Education Agency (LEA) programs.

SECTION 1. INFORMATION NEEDED PRIOR TO REVIEW

Prior to a compliance monitoring review a district shall send the following information to the Department **at least 30 days in advance of the review**:

(1) a list of the special education students served during the current school year sorted by school site and sorted by teacher.

If the review is conducted prior to December 1, the district will also need to send a list of the students served during the previous school year. The purpose of these lists is to confirm the state and federal special education student counts submitted by the district. The counts are taken on the fourth Friday in October for the state and on December 1 for the federal.

The special education list must include:

(a) student's name;
(b) exceptionality (primary and secondary disabling conditions);
(c) school building where special education services are provided;
(d) special education entry date and exit date; and
(e) type of service (resource, self-contained, intensive);

(2) district's policy and procedures manual;

Note: If a district does not have a manual, the Department needs the district's 94-142 LEA application.

(3) district's Child Find Plan, including:

(a) annual public notice;
(b) documentation of screening; and
(c) written procedures for receiving referrals;

(4) list of persons and/or agencies from which independent evaluations may be obtained;

(5) district's documentation of implementing Personnel Development Plan including:

   (a) record of training provided to preschool teachers (see Early Childhood Special Education Requirement Form, page m-8) and appropriate transcripts for the six semester hour requirement in effect 7/1/93 (see Part VIII, Section 3);
   (b) record of training provided to special education aides (see part VIII, Section 5);
   (c) record of training provided to persons collecting or using personally identifiable information (see Part VII, Section 7);

(6) list of private schools in the district and documentation of contact;

(7) names, positions and teacher certification numbers (i.e., social security number) of special education teachers, administrators and related service providers (also include names of aides); and

(8) district's Surrogate Parent Plan.

SECTION 2. MAINTAINING STUDENT RECORDS

During a monitoring visit a sample of student files will be reviewed. The items listed on the required File Components form (pages m-4 through m-7) will be reviewed and evaluated for those files selected. The items listed on this checklist must be maintained for each special education student. Additionally, each child's special education file should be organized in the order of the checklist. Except for attendance, which will be maintained by the service provider, these records must be maintained in a single file and be available to the Department of Education for compliance monitoring reviews.

Attendance

Each special education service provider, including related service providers, must maintain an attendance record for the special education students served. When an aide is assisting in providing services with itinerant supervision, the aide must maintain attendance records. The attendance records must indicate for each year: (1) the date the student enters the program, (2) the daily attendance and (3) the date the student exits the program. The attendance records are extremely important. The attendance records provide proof that the district is serving the student and therefore documents that the district is eligible for state and federal special education funds.

The following is a recommended method of maintaining an attendance record:

P = Present
A = Absent
T = Tardy
E = Entry; first day of attendance in class or service
W = Withdrawal; last day of attendance in class or service. (A student must be withdrawn from service after ten consecutive unexcused absences.)

For a student who is provided special education services in the regular classroom, attendance records must be maintained. The following methods are suggested:

(1) when the special education teacher and/or related service provider, as specified in the IEP, is providing special education services, attendance records will be maintained by the special education teacher; or

(2) when the regular classroom teacher, as specified in the IEP, is providing special education services, attendance records will be maintained by the regular classroom teacher. Attendance records must clearly indicate the days special education services were provided.
In addition, monthly supervision of the program is required. This must be reflected in the attendance records of the special education teacher.

When a student moves from one district to another, both districts must maintain all of the records necessary to document that the student was appropriately served.

A district shall maintain records until no longer needed to provide educational services, but not less than five years.

The remainder of this Part is a detailed compliance monitoring checklist of the items that may be reviewed during a compliance monitoring review. The checklist includes examples of specific indicators which can be used to determine the existence of compliance with the specific requirements. The checklist can be used by districts as a self-monitoring tool.

Student File Review Form
Required File Components

Student's Name ____________ Sex ____

School District ____________

School ____________

Birthdate ______ Age ______ Grade ______

Disability ____________

Claimed ______ Verified ______

______ Resource ______

______ Self Contained ______

______ Intensive ______

______ Gifted ______

Comment: ____________

☐ Confidentiality access signature

☐ Name, address and telephone number of parent(s)

☐ Referral: Date: ____________

☐ Screening information: V ______ H ______ M ______ Other ______ Prim Lang./Cult. ____________

Evaluation Information

- ☐ Consent for initial evaluation: Date:
- ☐ Evaluation protocols and any individual evaluation reports: ____________
- ☐ MDT report, or LD report including documentation of eligibility: Date: ____________
- ☐ Observation (for LD only) ☐ Yes ☐ No
- ☐ 3 yr reevaluations: Dates: ____________

☐ Consent for initial placement in special education: Date: ____________

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Revised July 1993

Placement within 30 calendar days of MDT eligibility determination ☐ Yes ☐ No
Placement within 45 school days of parent consent for evaluation ☐ Yes ☐ No
IEP implemented as soon as possible following IEP meeting ☐ Yes ☐ No

Written Prior Notice, as appropriate ______________________________

- ☐ 3 year reevaluation
- ☐ Change of IEP, when parents disagrees
- ☐ Change in IEP, when parents miss IEP meeting
- ☐ District refused action (involving identification, evaluation, placement)

IEP information:

- ☐ Invitation to IEP meeting: Date: ____________ Comment: ______________________________
  - Parent: ☐ Telephone ☐ Written
  - Student : ☐ Telephone ☐ Written (age 16+ or when re: transition)
- ☐ Current IEP which includes: Date: ____________ Comment: ______________________________
- ☐ List of IEP participants, and their role
  - ☐ District representative
  - ☐ Student's teacher
    - ☐ Regular classroom teacher (required for LD)
    - ☐ SpEd teacher
  - ☐ Student's parents/surrogate (if not in attendance need written prior notice) Comment: ______________________________
  - ☐ Student, when appropriate (age 16+ or when re: transition)
  - ☐ Private school representative, when appropriate
  - ☐ Transition service providers, when appropriate
  - ☐ Other: ______________________________

☐ Present level of educational performance: ______________________________

____

☐ Annual goals: ______________________________

Are all areas of need listed as goals: ☐ Yes ☐ No

☐ Measurable short term objectives which include:

☐ (1) Objective criteria ______________________________

☐ (2) Evaluation procedures ______________________________

☐ (3) Schedules ______________________________

☐ The special education and related services, including the amount of service: ______________________________

____

☐ At least monthly on site program supervision by itinerant provider: ☐ Yes ☐ No

☐ Physical Education: regular, specially designed: ______________________________

☐ Vocational Education: ______________________________

☐ Participation in regular education: ______________________________

☐ Does student receive a full instructional day? ☐ Yes ☐ No

If no, is shortened day determined on an individual basis? ☐ Yes ☐ No

☐ Projected starting date and anticipated duration of services: ______________________________

☐ Justification of placement in least restrictive environment: ______________________________

____

☐ Documentation ESY was considered: ______________________________

☐ Statewide testing: ______________________________

☐ Suspension/Denial of admission: ______________________________

☐ Assistive technology: ______________________________

☐ Accommodations ______________________________

☐ Statement of needed transition services (16+):

- ☐ (1) Instruction, or ☐ Statement of team determination that this service is not needed and basis of that determination
- ☐ (2) Community experiences, or ☐ Statement of team determination that this service is not needed and basis of that determination
- ☐ (3) Development of employment and other post school adult living objectives,
  or ☐ Statement of team determination that this service is not needed and basis of that determination
- ☐ (4) Acquisition of daily living skills and vocational evaluation, when appropriate
- ☐ (5) Statement of interagency responsibilities and/or linkages, when appropriate

☐ Other: ______________________________

Exit information

☐ Notice of proposed action: Date: ______________ Comment: ______________

☐ IEP meeting (when appropriate): Date: ______________ Comment: ______________

☐ Exit form completed: Date: ______________ Comment: ______________

- ☐ Graduation
- ☐ Other: ______________________________

Historical Information

☐ IEPs for the previous 5 years or as appropriate

☐ Previous written notices

☐ Previous MDT reports

Comment: ______________________________

____

____

____

STATE OF ALASKA

Early Childhood Special Education Requirement Form
6 Semester hours per 4AAC12.025(d)

Name: ________________________________

SS #: ________________________________

School District: __________________________

Credits	Documentation	College/University	Course Title

__________ Total Semester Hours Documented

T = Transcript
C = Class list (Summer Academies)

Comments: ____

____

____

____

____
Department Approval

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
1.0 GENERAL			
1.1 All special education students must be provided with a Free Appropriate Public Education (FAPE).			
1.1.1 Free: services are provided without charge to parents.	absence of parental complaints regarding being charged for services		
	contact sample of parents for students with non-traditional services on IEP (e.g., related services, residential services)		
1.1.2 Appropriate: services are provided in conformity with an Individualized Education Program (IEP).	current IEPs available and implemented as written		
1.1.3 Public Education: services are provided at public expense, under public supervision and direction.	public school program:		
	attendance records showing student participation in an accredited public school program		
	private school program:		
	attendance records showing participation in public school special education program		
	juvenile detention centers and/or adult correctional facilities		
	attendance records showing participation in special education program		

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REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
1.2 **Ages 3 through 21:** Services are provided to children ages 3 through 21.	school records which indicate birthdates of children served		
1.3 **Full Educational Opportunity:** (Each disabled child is provided a full educational opportunity.)	IEP indicates degree of involvement in regular education		
	student records indicate involvement with a variety of educational programs (e.g., art, music, industrial arts) equal to those provided to non-disabled children		
	student records indicate involvement in non-academic and extra-curricular activities (e.g., athletics, clubs, recreational activities) equal to those provided to non-disabled children		
	student records, teacher interview, parental feedback indicate involvement in regular P.E. or IEP indicates specially designed P.E.		
	observation of child's participation		
1.4 **Proper Functioning of Hearing Aids**	check with child, teacher and/or audiologist		
2.0 **IDENTIFICATION (CHILD FIND PLAN)** (Identification means the continuous and systematic effort to find children three through twenty-one who are in need of special education.)	Appropriate Child Find Plan exists		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
2.1 **Ages 3 through 21:**	specific mention of all age groups 3 through 21 is included in the Child Find Plan		
2.2 **Annual Public Notice**	procedures for providing notice are outlined in Child Find Plan		
	records of T.V. spots, dated newspaper announcements, etc., indicating annual notice		
	notice include: a) educational needs of children with disabilities b) right to FAPE c) special services available through district		
	notices available in each language in which district has bilingual program		
2.3 **Screening Process** Vision Hearing Health Motor, language and social development General basic skills and general development Primary language and culture Daily skills in home and community (obtained through parental input)	procedures for screening program are outlined in Child Find Plan		
	summarized results of screening programs are available		

SECTION 3. MONITORING CHECKLIST

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
2.4 **Referral Procedures**	procedures for referral are outlined in Child Find Plan		
	referral form is present in eligible student files		
	person identified to review referral information		
3.0 **EVALUATION** (Evaluation is the process of utilizing formal and informal procedures to determine specific areas of student strengths, needs and eligibility for special education services.)			
3.1 **Notice** (Notice is provided to parents regarding recommendation for evaluations.)	documentation of notice to parents		
3.2 **Consent** (Consent is obtained from parents to conduct initial evaluations.)	signature of parent on initial consent for evaluation form		
	form dated prior to evaluation		
3.3 **Evaluations Are Timely** (Evaluation and placement in special education is completed within 45 days of initial consent for evaluation.)	comparison of date on initial consent for evaluation form and placement in special education		
3.4 **Selection of Evaluation Procedures/Materials**			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
3.4.1 Procedures/instruments valid for purpose used.	available validity information on procedures/instruments indicates applicable for student(s) used with		
3.4.2 Evaluation process includes more than one procedure.	count number of procedures/instruments used		
3.4.3 Procedures/instruments assess educational need.	available information on procedures/instruments indicates applicable skills (e.g., reading, writing, social skills, etc.)		
3.4.4 Procedures/instruments reflect aptitude or achievement level regardless of impairment.	documentation exists that accommodation has been made to facilitate performance (e.g., alternate mode of communication, large print, etc.) when appropriate		
3.4.5 Procedures/instruments selected and administered so as not to be racially or culturally discriminatory	available validity information on procedures/instruments indicates applicable for student(s) used with		
3.5 Administration of Evaluation Procedures/Instruments			
3.5.1 Administration in native language, when appropriate.	documentation of level of language fluency of the child in L_1 and L_2 based on state bilingual categories A-E (Chapter 34 regs.) documentation that examiner is proficient in native language of student		
3.5.2 Administration in other mode of communication (e.g., sign language), when needed.	documentation that the examiner used is proficient with other mode of communication of the child		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
3.5.3 Administration by trained personnel.	documentation indicating examiner has training specified in administration instructions for procedures/instruments		
	procedures for contracting with examiner with specified skills		
3.6 **Assess all areas related to suspected disability**	compare areas of concern on referral form and individual reports to areas assessed		
3.7 **Multidisciplinary Team** (The evaluation is made by a multidisciplinary team.)	the persons who assessed the child signed MDT report		
	one team member is a teacher or other specialist with knowledge in suspected disability		
3.8 **Evaluation occurs prior to placement**	compare dates of each evaluation with program start date		
3.9 **Re-evaluation** (Re-evaluation occurs at least every three years.)	compare start date in a sp. ed. program with most recent evaluation date		
3.10 **Independent Evaluations** (Provide opportunity for parents to seek independent evaluations.)			
3.10.1 Provision of information to parents.	list of where independent evaluations can be obtained		
3.10.2 Independent evaluations at public expense.	invoice, payment record for independent evaluations		

SECTION 3. MONITORING CHECKLIST

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
3.10.3 Consider results of independent evaluations.	MDT report indicates independent evaluations considered		
3.10.4 Results may be presented as evidence at a hearing.	district informs parents of this right in parent rights notice		
3.10.5 If hearing officer requests independent evaluation, cost is at public expense.	district informs parents of this right in parent rights notice		
3.10.6 Independent evaluations at public expense must meet agency criteria for evaluations.	district informs parents of this right in parent rights notice		
4.0 ELIGIBILITY (Eligibility involves the criteria which determine whether a child with a disability is in need of special education and related services.)			
4.1 **Mental Retardation** To be eligible for special education and related services as a child with mental retardation, a child must:			
4.1.1 score two or more standard deviations below the national norm on an individual standardized test of intelligence; and	evaluation data documents IQ score, deficit in adaptive behavior **and** how educational performance has been adversely affected		
4.1.2 exhibit deficits in adaptive behavior manifested during the developmental period which adversely affect the child's educational performance; and			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.1.3 require special facilities, equipment or methods to make his educational program effective; and			
4.1.4 be diagnosed as mentally retarded by a psychiatrist or by a psychologist; and			
4.1.5 be certified by a multidisciplinary team as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary evaluation report		
4.2 **Learning Disability** To be eligible for special education and related services as a child with a learning disability, a child must:			
4.2.1 exhibit a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. The term includes such conditions as: perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia.	evaluation data document a disorder and indicate educational performance has been adversely affected		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.2.2 Learning disability does not include children who have learning problems that are primarily the result of: a visual disability • a hearing disability mental retardation emotional disturbance environmental disadvantage			
4.2.3 In evaluating a child suspected of having a specific learning disability, the multidisciplinary evaluation team must include:			
• the child's regular teacher; or			
• if the child does not have a regular teacher, a classroom teacher qualified to teach a child of his or her age; and	MDT (LD) report		
• at least one person qualified to conduct individual diagnostic examination of children, such as a school psychologist, speech-language pathologist or remedial reading teacher.			

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REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.2.4 A team may determine that a child has a specific learning disability if: the child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed below, when provided with learning experiences appropriate for the child's age and ability levels; and the team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas: • oral expression • listening comprehension • written expression • basic reading skill • reading comprehension • reading comprehension • mathematics calculation • mathematics reasoning	documentation in file and MDT (LD) report		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.2.5 Observation			
At least one MDT member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.	summary of observation as part of LD report; report signed by qualified observer who is other than the child's regular teacher		
An observation must document the name and title of the observer, the site of the observation, and the date of the observation. The observation must be attached to the MDT Report.			
4.2.6 Written Report	MDT (LD) report exists		
The MDT team shall prepare a written report of the results of the evaluation. The report must include a statement of:			
whether the child has a specific learning disability;			
the basis for making the determination;			
the relevant behavior noted during the observation of the child;			
the relationship of that behavior to the child's academic functioning;			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
the educationally relevant medical findings, if any;			
whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services;			
the determination of the team concerning the effects of environmental, cultural, or economic disadvantage;			
the report must be dated and each team member shall certify in writing (by his or her signature) whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team members must submit a separate statement presenting his or her conclusions.			
4.2.7 The child must require special facilities, equipment or methods to make his or her education program effective.			
4.2.8 The child must be certified by a multidisciplinary team as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary evaluation report		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.3 **Serious Emotional Disturbance** To be eligible for special education and related services as a child with a serious emotional disturbance, a child must:			
4.3.1 exhibit one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:	evaluation data document one or more of characteristics (a through e) and indicate educational performance has been adversely affected		
a) an inability to learn which cannot be explained by intellectual, sensory or health factors;			
b) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;			
c) inappropriate types of behavior or feelings under normal circumstances;			
d) a general pervasive mood of unhappiness or depression; or			
e) a tendency to develop physical symptoms or fears associated with personal or school problems.			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
The term includes children who are schizophrenic but does not include children who are only socially maladjusted.			
4.3.2 require special facilities, equipment or methods to make his or her educational program effective; and			
4.3.3 be diagnosed as seriously emotionally disturbed by a psychiatrist or by a psychologist; and			
4.3.4 be certified by a multidisciplinary team as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary report		
4.4 **Deafness** To be eligible for special education and related services as a child who experiences deafness; a child must:			
4.4.1 exhibit a hearing impairment which hinders the child's ability to process linguistic information through hearing, with or without amplification; and	evaluation data document a hearing impairment and indicate educational performance has been adversely affected		
4.4.2 require special facilities, equipment or methods to make his educational program effective; and			
4.4.3 be diagnosed by a physician or audiologist as deaf, and			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.4.4 be certified by a multidisciplinary team as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary evaluation report		
4.5 **Hard of Hearing** To be eligible for special education and related services as a child who experiences hardness of hearing, a child must:			
4.5.1 exhibit a hearing impairment which adversely affects educational performance but which is not within the meaning of deaf; and	evaluation data document hearing impairment (but not deaf) and indicate educational performance has been adversely affected		
4.5.2 require special facilities, equipment or methods to make his educational program effective; and			
4.5.3 be diagnosed by a physician or audiologist as hard of hearing; and			
4.5.4 be certified by a multidisciplinary team as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary evaluation report		
4.6 **Orthopedic Impairment** To be eligible for special education and related services as a child with an orthopedic impairment, a child must:			

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SECTION 3. MONITORING CHECKLIST

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.6.1 exhibit a severe orthopedic impairment, including impairments caused by congenital anomaly, disease or other causes, which adversely affects educational performance; and	evaluation data document severe orthopedic impairment and educational performance has been adversely affected		
4.6.2 require special facilities, equipment or methods to make his educational program effective; and			
4.6.3 be diagnosed by a physician as orthopedically impaired; and			
4.6.4 be certified by a multidisciplinary team as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary report		
4.7 **Other Health Impairments** To be eligible for special education and related services as a child with other health impairments, a child must:			
4.7.1 exhibit limited strength, vitality or alertness due to chronic or acute health problems such as heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia or diabetes, which adversely affects educational performance; and	evaluation data document other health problems and indicate educational performance has been adversely affected		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.7.2 require special facilities, equipment or methods to make his educational program effective; and			
4.7.3 be diagnosed by a physician as health impaired; and			
4.7.4 be certified by a mulitdisciplinary team as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary evaluation report		
4.8 **Visual Impairment** To be eligible for special education and related services as a child with a visual impairment, a child must:			
4.8.1 exhibit a visual impairment not primarily perceptual in nature, resulting in measured acuity of 20/70 or poorer in the better eye with correction, or a visual field restriction of 20 degrees as determined by an optometrist or ophthalmologist, which even with correction, adversely affects educational performance; or	evaluation data document visual impairment and educational performance has been adversely affected		
4.8.2 exhibit a physical eye condition that affects visual functioning to the extent that specially designed instruction is needed; and			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.8.3 require special facilities, equipment, materials or methods to make his educational program effective as determined by a teacher of visually impaired; and			
4.8.4 be certified by a multidisciplinary team which includes a certified teacher of visually impaired as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary evaluation report		
4.9 **Speech Impairment** To be eligible for special education and related services as a child with a speech impairment, a child must:			
4.9.1 exhibit a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects educational performance; and	evaluation data document communication disorder and educational performance has been adversely affected		
4.9.2 require special facilities, equipment or methods to make the child's educational program effective; and			
4.9.3 be diagnosed by a physician, speech pathologist or speech therapist as speech impaired; and			
4.9.4 be certified by a multidisciplinary team as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary evaluation report		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.10 **Multiple Disabilities** To be eligible for special education and related services as a child with multiple disabilities; a child must:			
4.10.1 exhibit two or more of the conditions described in this section, the combination of which causes such severe educational problems that they cannot be accommodated in a special education program for solely one of the conditions; and	evaluation data document two or more disability conditions exist and educational performance has been adversely affected		
4.10.2 require special facilities, equipment or methods to make the child's educational program effective; and			
4.10.3 be diagnosed as set out in this section for each condition; and			
4.10.4 be certified by a multidisciplinary team as requiring special education services which cannot be provided in a program for a single condition.	eligibility certification is part of multidisciplinary evaluation report		
4.11 **Deaf-Blindness** (Dual Sensory Impairment) To be eligible for special education and related services as a child who experiences deaf-blindness, a child must:			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.11.1 exhibit concomitant hearing and visual impairments, the combination of which causes such severe communication and other development and educational problems that the child cannot be accommodated in a special education program solely for children with deafness or blindness; and	evaluation data document visual and hearing impairment which cannot be accommodated in a program solely for a deaf or blind child and educational performance has been adversely affected		
4.11.2 require special facilities, equipment or methods to make the child's educational program effective; and			
4.11.3 be diagnosed by an optometrist or ophthalmologist and by a physician or audiologist, as appropriate, as deaf-blind; and			
4.11.4 be certified by a multidisciplinary team as qualifying for and needing special education services for the deaf-blind.	eligibility certification is part of multidisciplinary evaluation report		
4.12 **Pre-School Disabilities** To be eligible for special education and related services as a pre-school child with disabilities, a child must:			
4.12.1 be not less than 3 years old nor more than 6 years of age; and	date of birth is on file		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.12.2 meet the eligibility criteria for: mental retardation, serious emotional disturbance, deafness, hardness of hearing, orthopedic impairment, other health impairments, visual impairment, autism, TBI, multiple disabilities, deaf-blindness, or preschool speech impaired **or**	evaluation data document one of these categories		
4.12.3 be certified by a multidisciplinary team as qualifying for and needing special education services as a **preschooler with developmental delays** by meeting the following criteria: a) functions at least two standard deviation below the mean or 25% delayed in age equivalency in at least one of the following five areas: 1) cognitive development 2) physical development which includes fine and gross motor 3) speech/language development which includes articulation, fluency, voice and language 4) psycho-social 5) self-help skills; **or**	eligibility certification is part of the multidisciplinary evaluation report		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
b) functions at least 1.7 standard deviations below the mean or 20% delay in age equivalency in two or more of the five areas in "a" above; **and**			
c) has learning problems which are not primarily the result of bilingualism, cultural difference, environmental disadvantage or economic disadvantage.			
Note: There is not a pre-school learning disability classification. A child with learning problems who is not less than 3 years nor more than 6 years of age must meet the above criteria for pre-school developmentally delayed to qualify for service.			
4.13 **Autism** To be a eligible for special education and related services as a child with autism, a child must:			
4.13.1 exhibit a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three, that adversely affects educational performance; and	evaluation data document autism and indicate educational performance has been adversely affected		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.13.2 require special facilities, equipment or methods to make the child's educational program effective; and			
4.13.3 be diagnosed as autistic by a psychologist licensed under AS 08.86. and certified under 4 AAC 12.040, or endorsed under 4 AAC 12.060; and			
4.13.4 be certified by a multidisciplinary team as qualifying for and needing special education services.	eligibility certification is part of multidisciplinary evaluation report		
4.14 **Traumatic Brain Injury** To be eligible for special education and related services as child with TBI; a child must:	evaluation data document traumatic brain injury and indicate educational performance has been adversely affected		
4.14.1 exhibit an injury to the brain caused by an external physical force or by an internal occurrence such as stroke or aneurysm, resulting in total or partial functional disability or psychosocial maladjustment that adversely affects educational performance;			
4.14.2 require special facilities, equipment or methods to make the child's educational program effective;			
4.14.3 be diagnosed by a physician as having a traumatic brain injury; and			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
4.14.4 be certified by a multidisciplinary team as qualifying for and needing special education services.	eligibility certification is part of evaluation report		
5.0 IEP DEVELOPMENT/IMPLEMENTATION/ REVIEW/REVISION (The Individualized Education Program is a process for determining a student's educational needs, based on assessment information, and completing a written individualized education program.)			
5.1 **Existence of IEP** (Each eligible child with a disability has an approved IEP.)	student file contains a current IEP		
5.2 **Conduct IEP Meeting**	date and participants in IEP meeting listed on IEP		
5.2.1 Within 30 days after eligibility determination.	compare date of eligibility determination with date of IEP meeting		
5.2.2 Review, and if necessary, revise IEP (at least annually).	record in files indicating reviews have occurred		
5.3 **Participation In IEP Meeting**	listed on IEP as in attendance		
5.3.1 District representative			
5.3.2 The child's teacher			
5.3.3 Representative of private school			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
5.3.4 One or both of the child's parents			
5.3.5 The child, when appropriate, or when transition services are considered			
5.3.6 Evaluation personnel	member of evaluation team attends IEP meeting following initial evaluation (or other team member knowledgeable about the evaluation procedures used and the results) and at other meetings as appropriate		
5.3.7 Related service personnel			
5.3.8 Representative from public agency(ies) responsible for providing or supervising the provision of transition services			
5.3.9 Other individuals (at discretion of parents or district)			
5.4 **Parent/Student Participation** Take steps to insure parents/student (transition age) participate.			
5.4.1 Schedule meeting at mutually agreed upon time and place. Meeting scheduled early enough to ensure parent the opportunity to attend.	dated letter, form, log or record of telephone call indicating contact with parents/student regarding options for time, place of meeting, and who will attend meeting		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
5.4.2 Invite parents/student to meeting: a) state purpose of meeting b) state time of meeting c) state location of meeting d) state who will attend meeting	dated letter, form, log or record of telephone calls documenting invitation components		
5.4.3 Involvement of parents through telecommunication or other methods.	log of call which corresponds with date of IEP meeting		
5.4.4 Conducting meeting without parent or student (transition age) participation.	documentation of efforts to encourage parental/student participation a) detailed record of telephone contacts b) copies of correspondence to or from parents/student c) detailed records of visits to a place of employment d) documentation of justification for student nonparticipation and how student needs, preferences and interests were considered		
5.4.5 Ensure parent understanding of meeting.	documentation that interpreter for deaf parents, speaker of parents' language, if other than English, etc. were provided, when appropriate		
5.5 **Content of IEP**	current IEP which contains the required information		
5.5.1 A statement of the child's present level of educational performance.			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
5.5.2 Annual goals and short term objectives.			
5.5.3 Objective criteria, evaluation procedures and schedules for the short term objectives.			
5.5.4 Listing of specific special education and related services including: a) amount of time b) frequency of service c) starting date of service d) anticipated duration of service			
5.5.5 Listing of frequency of site supervision by itinerant service provider.			
5.5.6 A statement regarding extent of participation in regular education programs.			
5.5.7 Names of persons on IEP team and their role.			
5.5.8 Placement decision and justification; length of instructional day.			
5.5.9 Statement of needed transition services, including a) instruction b) community experiences c) employment and other post school living objectives	for students beginning no later than age 16 years (and if determined appropriate, at age 14 or younger), current IEP/Individual Transition Plan contains required information or statement of team determination that a service is not needed and basis of the determination		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
And, when appropriate:			
a) acquisition of daily living skills			
b) vocational evaluation	referenced in PLEP		
c) statement of interagency responsibilities and/or linkages for transition services; or	documentation that other agency(ies) have accepted the student for post-secondary services, when appropriate documentation of other agency's participation and services, when appropriate		
	district level interagency agreements exist		
Identification of alternative strategies in revised IEP.	documentation that the district has reconvened the IEP team and specific alternative strategies have been identified and implemented (if a participating agency fails to provide agreed upon services)		
5.5.10 Anticipated date of school completion (for secondary students).	current IEP contains required information		
5.5.11 Statement regarding: modification for p.e. and/or vocational ed., ESY, participation in statewide testing, suspension/denial of admission, need for assistive technology and accommodations	current IEP contains required information		
5.6 **Implementation Timelines**			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
5.6.1 IEP is implemented within 30 days of MDT.	appropriate MDT/IEP dates; attendance records		
Determination of eligibility within 45 school days of parental consent for evaluation.	compare dates on consent and MDT report		
5.6.2 IEP is in effect before services are provided.	date on IEP precedes date of any special ed. or related service delivery		
5.6.3 IEP implemented as soon as possible following the IEP meeting	compare IEP date and attendance records		
5.6.4 IEP is in effect at beginning of each school year.	date on review of IEP allows IEP to be in effect when school begins		
5.6.5 IEP is in effect on 3rd BD for incoming ECE children eligible for special education.	date of IEP in effect on 3rd BD or beginning of school year, as appropriate		
5.7 **Copies of IEP**	check with parents to see if received copy		
5.8 **Review of IEP**			
5.8.1 Progress in achieving objectives.	data exists relating to established evaluation criteria (i.e., 5.5.3)		
5.8.2 Appropriateness of IEP to current needs.	indication in files approval by team goals, objectives match PLEP needs		
5.8.3 Changes noted on IEP.	check IEP		
5.8.4 IEP team meets at least once a year to review IEP.	documentation on IEP of meeting review date		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
6.0 PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT			
6.1 **Parental consent prior to initial placement.**	copy of signed Consent-for-Initial-Placement form dated prior to any delivery of special education or related services		
6.2 **Placement decision based on an IEP and made after IEP developed.**	placement in conformance with IEP date/time of initial or revised IEP		
6.3 **Placement is determined annually**	check IEP		
6.4 **Placement decision made by group of persons knowledgeable about the child, the meaning of the evaluation data and placement options.**	documentation on IEP of placement decision made by IEP team		
6.5 **Placement decision based upon a variety of sources (e.g., achievement data, teacher recommendations, physical condition, social or cultural background, adaptive behavior). Document consideration of information obtained from all sources.**	MDT report documents information and team's consideration. data from MDT integrated report and/or IEP support a variety of sources used		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
6.6 **Have available a continuum of alternative placements:** a) regular class with supplemental aids and services; b) regular class with direct service from special education personnel; c) direct service from resource or itinerant personnel; d) self-contained classroom; e) special school; f) home or hospital instruction; or g) instruction in institution.	placements are available to be observed		
6.6.1 Provision made for supplementary services (e.g., resource room, itinerant instruction) to be provided in conjunction with regular class placement.	services are available to be observed		
6.7 **Documentation exists regarding consideration of the continuum of services (less restrictive services are tried or considered prior to recommending more restrictive services).**	placement in the regular classroom has been tried or considered with supplemental aids and services		
	evidence exists that best practice interventions have been tried or considered to maintain a student in present setting before movement to a more restrictive setting		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
	a complete listing of the continuum of possible (not merely available) placements is used in recommending placement		
	unless it is documented (i.e., student achievement data) that a student achieves better academically and socially in a more restrictive environment, the student will remain in the lesser restrictive setting		
6.8 **Placement in home school or closest to home.**	identify the school the child would attend if not disabled (i.e., home school)		
	document consideration of feasibility of providing needed services in home school		
	identify schools in descending order in terms of distance from home school		
	if not feasible to provide needed services in home school, document consideration for each school on continuum list		
6.9 **Extent of participation in the regular education program.**	indicated on IEP		
6.9.1 Variety of program and service options available including art, music, industrial arts, consumer education, homemaking education, and vocational education.	daily schedule		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
6.10 **Involvement with non-disabled peers.**	daily schedule		
6.10.1 Participation of students with disabilities in nonacademic and extracurricular activities (including meals and recess) with nondisabled students to maximum extent appropriate to needs of the student.	daily schedule		
6.11 **Consider harmful effect or quality of services in selecting LRE.**	documentation in files that consideration was given to effects of different placement alternatives		
6.12 **Placement decisions not based on the following:** a) category of disability; b) configuration of service delivery system; c) availability of special education or related services; d) availability of space; or e) curriculum content or methods of curriculum delivery.	based on file review, none of these factors are used in justification for placement		
6.13 **Arrange for appropriate placement by chronological age.**	age appropriate placement with other students in academic and extra-curricular courses, activities		
6.14 **Evidence of review of LRE decision at least annually or whenever a change in the IEP is made.**	at each review, evidence exists that steps above have been reconsidered		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
6.15 **Placement in private school (special education and related services are available to disabled children in private schools within district).**	list of private schools		
	documentation indicating contact made to private schools to identify disabled children who need service		
	list of disabled children enrolled in private school		
	IEP available for each disabled student on each private school list who is receiving services		
6.16 **Placement in private school by district.**			
a) Child is provided FAPE through special education and related services in conformance with an IEP and due process rights are provided	IEP and due process notices		
b) Before referral to or placement in a private school, the district shall conduct an IEP meeting.	documentation regarding dates of IEP meeting and dates of placement		
c) Ensure representative of private school attends IEP meeting or involved in other ways.	private school representative signs IEP or documentation of individual contacts (e.g., phone log)		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
d) Meetings involving review and revision of the IEP shall involve parent and a district representative in any agreement involving changes in the IEP.	signature of parent and district representative indicating agreement with any changes on IEP		
e) Responsibility for compliance with Part B rests with district and the SEA.	monitoring report available on private school placements		
f) Special education and related services are provided at no cost to parents.	absence of parental complaints regarding being charged for services		
g) School or facility meets standards that apply to the district and SEA	absence of violations issued by the Dept. of Environmental Conservation (water, sewer, general sanitation), the State Fire Marshal's Office (fire code compliance), or the Dept. of Transportation and Public Facilities		
6.17 **Placement in private school by other than district but receiving services from district.**			
a) The district shall initiate, conduct, review and revise IEP for each child.	availability of IEP; dates indicating compliance with timelines; signatures of required participants		
b) Ensure representative of private school attends IEP meeting or involve in other ways.	private school representative signs IEP or documentation of individual contacts (e.g., phone log)		

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REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
6.18 **Children with disabilities, including children in public or private institutuions or other care facilities, are educated with children who are nondisabled to maximum extent appropriate**	IEP indicating extent of participation district procedures established to meet LRE requirements		
6.19 **Removal of students with disabilities from the regular education environment occurs only when nature and severity of disability is such that education in regular classes with use of supplementary aids and services cannot be achieved satisfactorily**	justification for placement documented in IEP district procedures established to meet LRE requirements		
7.0 PROCEDURAL SAFEGUARDS AND CONFIDENTIALITY It is the responsibility of the district to establish and implement procedural safeguards. (Procedural safeguards and confidentiality involves the parental rights and responsibilities in the acquisition, development and implementation of special education services for a disabled child.)	compliance with requirements specified in this section		
7.1 **Written Notice** (Written notice must be given to parents before the district proposes to initiate or change or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education of the child.)	check records to insure each time such changes are proposed that a corresponding written notice exists		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.1.1 Contents of Notice:	check notice(s) to insure that these seven components exist		
a) Description of proposed action;			
b) Explanation of proposed action;			
c) Description of each evaluation procedure, record or report used in deciding to propose or refuse action;			
d) Description of other options considered;			
e) Reasons for options being rejected;			
f) A description of any other factors which are relevant to the proposal or refusal; and			
g) Full explanation of procedural safeguards (rights).			
7.1.2 Communication of Notice			
a) Written in language understandable to the general public.	absence of "educational jargon"		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
b) Provide written notice in native language of parent, if appropriate.	copy of translated notice		
or	or		
c) If native language is not a written language provide an oral notice.	written or taped record of translation		
d) Provide notice in other mode of communication for parents with disabilities.	record of use of alternative communication methods (e.g., braille notice, interpreter)		
e) Insure parent understands content of notice.	check with parent		
7.2. Consent			
7.2.1 Consent may not be required except for initial evaluation and initial placement.	no requirements exist in district procedures requiring consent other than initial evaluation or initial placement		
7.3 Impartial Due Process Hearings			
7.3.1 Parental Initiation (Parents may file a written request for a hearing to challenge an action or refusal to initiate or change the identification, evaluation or educational placement of a child, or the provision of FAPE.)	letter in records		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.3.2 District Initiation A district may initiate a hearing if: a) a parent refuses initial placement b) a parent refuses initial placement c) a parent refuses to give consent to release a record, or d) to show the appropriateness of a district evaluation.	written notice to parents regarding intent to initiate hearing		
7.3.3 Notice to Parents of Rights and Procedures for Hearing			
a) Selection of hearing officer.	choose from an approved and current list of hearing officers compiled by the Department of Education		
b) Send notice of time, date and place of hearing at least 10 days before hearing.	copy of notice in records		
c) Hold closed hearing unless parents request open hearing.	if open hearing request, documented request in records		
d) Inform parents of hearing rights and responsibilities.	document that parents received rights information		
e) Burden of proof for proposed action is on the district.	listed as part of rights notice		
f) Hearing officer writes the decision(s) which is binding.	listed as part of rights notice		
g) Hearing officer may grant extensions of time at the request of either party.	listed as part of rights notice		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
h) A child shall not be denied initial admission or expect program change.	listed as part of rights notice		
i) Provide listing of free or low-cost services if parent requests information or hearing is initiated.	listed as part of rights notice; copy of letter and copy of list are available		
7.3.4 Requirements in Conducting Hearings			
a) Hearing must be recorded.	transcript of hearing		
b) Oral evidence shall be taken only on oath or affirmation.	record in transcript of oath or affirmation		
c) Each party shall disclose evidence at least 5 days before the hearing.	compare dates on evidence submitted and beginning of hearing		
d) The hearing officer shall render a final written decision within 45 days of the request for a hearing.	compare request for hearing date with date on hearing decision		
e) The district shall mail a copy of the decision, within 45 days and after deleting any personally identifiable information, to the department and the advisory panel.	documentation of copy sent		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
f) The district shall provide a copy of the hearing transcript to the parent upon request.	record of parental request and documentation of provision of transcript		
g) Each hearing must be conducted at a time and place which is reasonably convenient to the parents and the child.	letter or phone log indicating options offered or discussion occurred		
7.3.5 Qualifications of Hearing Officer a) Be at least 18 years of age; b) Have participated in training program developed by the Department of Education; c) Not be employed by a public agency involved with the education of care of the child; d) Have no conflict of interest.	these criteria are met by choosing hearing officers from the Department's approved list		
7.3.6 Disqualification of Hearing Officer a) Either party may file an affidavit with hearing officer prior to the taking of evidence stating belief the hearing officer cannot conduct a fair and impartial hearing. b) Hearing officer may voluntarily disqualify herself or himself.	copy of affidavit		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.3.7 Appeal of Hearing Decision (Either party may appeal the decision of a hearing officer.)			
a) File notice of appeal with Department of Education within 30 days after the decision.	compare dated copy of notice to date of hearing		
b) Notice shall include: 1) parties to the hearing 2) a copy of the decision 3) the grounds for appeal	dated copy of notice		
7.3.8 Placement of Child During Proceedings	attendance records and class schedule		
a) Unless parties agree otherwise, child remains in educational placement which preceded proceedings.			
b) If proceedings concern admission to school the child must, with the consent of the parents, be admitted to school.			

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REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.4 **Confidentiality of Information** (A district shall permit parents to inspect and review any education records relating to their children which are collected, maintained or used by the district. The district shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation or placement of the child and in no case more than 10 days after the request has been made.)	dated documentation in records of compliance of request		
7.4.1 Right to review records Inform parents of right to review educational records which includes: a) Right to an explanation from the LEA. b) Right to request copies. c) Right to have a representative of parent inspect records. d) Presumption by district that either parent has authority to review records unless evidence of court order prevails.	dated documentation in records that parents have been informed of rights		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.4.2 Oversight of Records By One Designated Employee			
a) Assign a single employee the duty of protecting personally identifiable information in records.	documentation of name of employee		
b) Provide instructions to employee regarding district responsibility in confidentiality of information.	record of training, including person providing training and areas covered		
7.4.3 Training of personnel (All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures.)			
Maintain record of training to include: 1) dates of training 2) who conducted training 3) subjects covered 4) participants	check to verify record is on file		
7.4.4 Listing of employees within district who may have access to records.	list of employees available in district		
7.4.5 Record of parties obtaining access to records including: a) Name b) Date c) Purpose d) Agency Affiliation	documentation containing name, date, agency affiliation and purpose for accessing records		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.4.6 Review information on only one's own child.	copy of records reviewed shows only information on one child		
7.4.7 Provide parents a list of types and locations of information maintained.	copy of list; documentation indicating dates provided to parents		
7.4.8 District may charge a reasonable fee for copies but may not charge for search or retrieval.	record of any fees charged; indication in parent rights document		
7.4.9 Destruction of Information:	letter indicating notice provided		
a) Inform parents when collected information is not needed.	check with parents		
b) Destroy information at request of parents.			
c) Permanent record may be kept of: 1) student's name, 2) address, 3) phone number, 4) grades, 5) attendance record, 6) classes attended, 7) grade level completed.	check records		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.4.10 Parental request to amend records (Parents may request records be amended if they feel records violate rights of child.)	dated copy of request on file dated copy of decision; check with parents		
a) Upon request, district will decide within reasonable time whether to amend records.			
b) If district refuses to amend records, inform parents and advise of right to a hearing.	documentation of notice given to parents		
7.4.11 Hearing procedures			
The district shall on request provide an opportunity to challenge information in education records.	district informs parents of this right in parent rights notice		
7.4.12 Outcome of hearing			
a) If it is decided, as a result of hearing, information is in violation of rights of child it shall amend information and inform parents.	copy of amended records copy of notice to parents		
b) If it is decided, as result of hearing, information is not in violation of rights of child it shall inform the parents.	copy of notice to parents		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
c) When the decision is against the parents, parents are to be given the opportunity to place a statement of disagreement in the record.	copy of notice indicating this right statement in record		
d) Statement of disagreement must be maintained in record and included when affected portions of records are released.	statement in record		
7.4.13 Parental consent (Parental consent must be obtained before personally identifiable information is disclosed.)	copy of dated consent notice which complies with items a-1 through a-7		
a) Notice requesting consent should: 1) be in plain language; 2) be dated; 3) designate person who will release information; 4) indicate information to be disclosed; 5) designate persons who will receive information; 6) specify purpose for which information will be used; 7) specify expiration date.	copy of dated consent notice		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
b) Exceptions to consent: 1) school officials with legitimate educational interest; 2) school officials of other schools where student seeks to enroll; 3) authorized representatives of federal and state education agencies.			
7.5 **Surrogate Parents** Each district shall establish and implement written procedures for: a) the identification of children who are entitled to the appointment of a surrogate parent; b) for the appointment of a surrogate parent; and c) for the removal of surrogate parents.	copy of district Surrogate Parent Plan		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.5.1 Child Eligibility for Surrogate Parent	eligibility criteria outlined in Surrogate Parent Plan		
a) No parent or guardian can be identified b) District cannot, after reasonable effort, locate a parent or legal guardian; c) Parent rights have been terminated; d) Parent or legal guardian requests appointment in writing; or e) The child is in the custody of DHSS.	reason for eligibility is indicated in records		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.5.2 Qualifications for surrogate parent	qualifications are outlined in Surrogate Parent Plan		
a) Lacks any conflicts of interest; b) Not employed by district involved in education or care of child (not considered employee of district solely because paid as surrogate);			
c) Has participated in Department of Education developed surrogate parent training program;	record of training is on file		
d) Has knowledge and skills to assure adequate representation of the child;	documentation of achieving competence in training program objectives		
e) Preference in selection shall be given to a member of the child's family, or family friend.			
7.5.3 Change of educational placement (The educational placement of a child entitled to a surrogate parent shall not be changed until 10 days after the appointment of a surrogate parent.)	dated form in records indicating appointment of surrogate parent dated IEP or prior notice form indicating change in placement		
7.5.4 Responsibilities of surrogate parent. May represent the child in all matters related to identification, evaluation, educational placement, and provision of FAPE.	responsibilities are outlined in Surrogate Parent Plan		

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REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
7.5.5 Removal of Surrogate Parent	reasons outlined in Surrogate Parent Plan		
a) A surrogate parent shall be removed by the district if: 1) the surrogate parent requests removal; 2) the surrogate parent fails to perform duties; 3) a conflict of interest arises; 4) the surrogate parent engages in actions which threaten the well-being of the child; 5) the surrogate parent becomes unqualified to act as surrogate parent; or 6) the child's eligibility for a surrogate parent is removed.	if removal occurs documentation of reason exists in records		
b) Upon request the district shall provide an opportunity for an impartial review of the removal decision.	if review occurs, a summary of proceedings is available in the records		
7.6 **Complaint Procedure** (Written complaints may be made by any person and are filed with the staff of DOE/OSS.)	district informs parents of this right in parents rights notice check with parents		
8.0 **Personnel** (Personnel must be qualified and be involved in a program of ongoing training in line with the Comprehensive System of Personnel Development (CSPD) established by the Department of Education.)	copy of district Personnel Development Plan		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
8.1 Personnel Providing Special Education Services Have Met State Requirements			
8.1.1 Teachers	certification and/or endorsement in special education		
8.1.2 Related Service Providers	license or certification with endorsement		
8.1.3 Pre-school Teachers	record of required training and appropriate transcripts (6 semester hours)		
8.1.4 Administrators of Special Education	required certification and/or endorsement		
8.1.5 Special Education Aides	required training		
8.1.6 Interpreters for the Deaf	certification or approval from DOE		
8.2 Annual Personnel Development Information	documentation that requirements met		
8.2.1 A description of the training provided.			
8.2.2 Names of persons attending training.			
8.2.3 Name of person providing training.			
8.2.4 Dates of training.			
9.0 Funding (Funding involves accessing resources/services required to deliver programs for disabled children.)			

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
9.1 **Do Not Commingle Federal Funds with State and Local Funds**	maintain separate accounting process to enable an "audit trail" for expenditure of federal funds		
9.2 **Federal Funds May only Be Used for Excess Costs** (A district must spend a minimum average amount of funds for the education of each disabled child.)	DOE maintenance of fiscal effort table Formula to compute minimum average amount (Separate Elementary and Secondary Using Same Formula) 1) all LEA expenditures from preceding year a) minus capital outlay and debt service b) minus expenditures from Part B c) minus expenditures from Title I and Title VII of Elementary and Secondary Act of 1965 d) minus state and local funds expenditures for disabilities, educational deprived and LES students 2) sub-total from (1) divided by 3) Average Daily Enrollment for preceding year department audit results from finance division		

REQUIREMENT	COMPLIANCE INDICATOR	YES NO N/A	COMMENTS
9.3 **Use Federal Funds to Supplement Not Supplant State and Local Funds** (Maintenance of Effort)	DOE maintenance of fiscal effort table formula: 1) total average per capita of state/local special educational funds budgeted for current fiscal year [at least equals] 2. total average per capita of state/local special education funds expended in most recent preceding fiscal year allowance may be made for a) decrease in enrollment; b) large expenditures for long - term purposes (e.g., construction, equipment purchase)		
9.4 **Federal Funds Used to Make Services Comparable for All Children with Disabilities Within the Agency**	inspect records (IEP, attendance, etc.)		
9.5 **Count Children for Federal Funding** (94-142 or 89 -313)	confirm count submitted by district with district attendance records		
9.6 **Count Children for State Funding**	confirm count submitted by district with district attendance records		

APPENDIX B

FEDERAL

PRESCHOOL GRANT APPLICATION

SECTION 619

STATE OF ALASKA

FY 95, 96 & 97

PRESCHOOL GRANT APPLICATION INDEX

Part I. Certification

  - A. Submission Statement and
  - B. Executive Order 12372
  - C. Public Participation
  - D. Certification Required by EDGAR
  - E. ED form 80-0013

Part II. Budget Information

Part III. Program Narrative

Part I

Certification

Part I Certification

A. Submission Statement
B. Executive Order 12372
D. Certification Required by EDGAR
E. ED form 80-0013

The Preschool Grant, Section 619 application is being submitted jointly with our Part B State Plan. The submission statement, Executive Order 12372, Certification Required by EDGAR and ED form 80-0013 are completed jointly in accordance with OSEP memo #93-3.

C. Public Participation

The Alaska Department of Education has appended this Section 619 Plan to its Part B State Plan for Fiscal Years 1995-1997. The State Plan and the Section 619 Plan were both released for public comment on December 28, 1993 (see Appendix A for a copy of one of the Public Notices.

In drafting this application local school districts were given the opportunity to make recommendations for use of the State Education Agency discretionary funds.

Part II

Budget Information

Alaska
(State)

PART II

BUDGET INFORMATION

(Note: Provide information on this chart only for the fiscal years covered by this application for your State.)

The State Educational Agency assures that funds under this grant will be allotted according to the requirements at 34 CFR 301.30 (a), (b), and (c).

	FY95	FY96	FY97
1. Percentage of funds the SEA plans to use for direct and support services or planning and development of a comprehensive service delivery system (not more than 20% of the grant award)	15%	15%	15%
2. Percentage of funds the SEA plans to use for administrative costs (not more than 5% of the grant award)	5%	5%	5%
3. Percentage of funds the SEA plans to award to LEA's and IEU's (at least 75% of the grant award)	80%	80%	80%
Total	100%	100%	100%

Part II

Budget Information

Preschool Grant application - FY' 95, 96 & 97

The Following information represents the FY'92 budget.
The Actual budget will be revised after the federal allocation is announced.

	80% to LEAs and IEU's	15% SEA Set Aside	5% SEA Admin.
12/92 VI-B Count 1,490 Children X * $590.85 = $1,100,462	$880,370.00	$165,069.00	$55,023.00

$590.85 allocation per child

State of Alaska
Department of Education
Division of EPS/Special Education
Preschool Grant - Disabled 1993-94

BUDGET DETAIL

I. LEA, IEU Grants Total $880,370.00

II. SEA Administrative Expenses Total $55,023.00

A) PERSONNEL SALARIES/BENEFITS (71000)
Section 619 Program Manager .30FTE
$24,750.00

Section 619 Grant Manager .20FTE
$12,340.00

Section 619 Clerk Typist .10FTE
$4249.000

Subtotal of Salary and Benefits $41,339.00

B) TRAVEL (72000)
Section 619 Program Manager
$6,300.00

Sub Total of Travel $6300.00

C) SUPPLIES (74000)
Office supplies $500.00

Sub total of Supplies $500.00

D) CONTRACTUAL (73000)
Postage = 00.00
Xeroxing/Printing = $1,000.00
Phone = $1,060.00
Advertising = $400.00
Audio Conference 6 x 250 = $1,824.00
Administrative Services RSA = $2,500.00

Sub total of Contractual $7,384.00

III. SEA Discretionary - Set Aside Total $165,069.00

For direct and support services and
planning and development of CSDS.
SEA Leadership Activities:

1. Grants (77000)
   A. Support services to small LEA's = $53,500
   (less than $7,500 and newly enrolled child)
   B. Preschool Grant Library Project SERRC
   Consortium/Statewide library = $7,500
   printing and materials = $2,000
   other training activities = $8,000
   C. Assistance for ECSPED inservices up to $1,000
   each district = $36,000

Subtotle Grants = $107,000.00

2. Contractual (73000)
   D. Annual Special Education Director's
   Conferences, fall and spring = $4,000
   E. Early Childhood Special Ed. Topics;
   Alaska Staff Development Network = $42,524
   F. Governors Council for the Disabled
   and Special Education (ICC work; Birth through Five) =
   $11,545

Sub total Contractual = $58,069.00

Part III

Program Narrative

Part III Program Narrative
Preschool Grant Application, Section 619

The State of Alaska will use Preschool Grant funds for each of the federal fiscal years '95, '96 and '97 to:

1. Assist LEA's and IEU(s) in providing direct special education and related services to children with disabilities who are three through five years of age;
2. Provided special education and related services by contract, or through other arrangements to handicapped children aged three through five years of age who reside in LEA's that are unable or unwilling to provide special education;
3. Assist small LEA's with funding direct/support services when eligible children enter after the state and federal count dates and assist small/rural districts with extended school year programs;
4. Provide inservice training and technical assistance and to enhance the planning and development of a statewide comprehensive service delivery system through SEA leadership activities.

Part III

Program Narrative

A. DISCRETIONARY FUNDS

1. Description of Support Services

a) Small, rural school districts that are eligible to receive less than $7,500 are especially impacted when an eligible student with a disability enters the preschool program after state and federal count dates. The Preschool Grant Program has assisted small districts with funding to serve late entering multiply handicapped preschoolers and plans to continue to provide assistance. Small rural school districts are impacted by a need to provide extended school year services to preschoolers with disabilities. The preschool grant program will provide assistance.

b) The Preschool Grant Library Project provides for the loan of materials statewide to interested public school districts and other interested agencies such as Head Start. Videos, books, curriculum and assessment materials are included.

c) Inservice training is supported through a number of statewide CSPD activities including: annual Special Education Directors Conferences, Early Childhood Special Education topics at statewide Alaska Staff Development Network Summer Academies, and in State early childhood conferences.

2. Activities to enhance the planning and development of a statewide comprehensive service delivery system include:

d) Provide for an extended degree program for speech/language services which will enable speech pathologists in Alaska to receive a master degree which is currently Alaska's entry level minimum requirement.

e) Provide funds to support meetings and activities related to early childhood special education for Alaska's state advisory panel, The Governors Council for the Handicapped and Gifted.

B. FUNDS TO LEA's AND IEU's

1. For a copy of the application package and approval procedures used by the Alaska Department of Education: See Appendix B.

2. The estimated number and percent of LEA's and IEU's in the state that will receive a subgrant are:
   Number: (11) eleven LEA's will receive a subgrant
   Percent: 56% 19 LEA's will receive a subgrant through a consortium

3. The estimated number of LEA's and IEU's that will receive a subgrant under a consolidated application are: one IEU consortium representing 18 districts
   one LEA consortium representing 3 districts

4. An estimate of the number of consolidated applications that will be funded: the average number of LEA's and IEU's in each consolidated application:
   one - the average number of IEU's in the consolidated application
   see item 3 above for the number of districts expected in each consortium.

C. USE OF ADMINISTRATIVE FUNDS

1. Administrative activities planned include:

   a) review, approve, and revise subgrant applications;
   b) issue grants to LEA's, IEU;
   c) monitoring for compliance: local 619 projects;
   d) administrative support to discretionary activities;
   e) technical assistance to LEA's regarding local 619 programs;
   f) revise, recommend state policy revisions (Regulations, State Special Education Handbook);
   g) write, submit federal 619 application;
   h) compute allocations to LEA's and approve LEA budgets.

2. The following positions will be paid in part with Preschool Grant funds:

   a) The Section 619 Program Manager is responsible for writing and submitting the federal 619 application, computing LEA allocations, reviewing and approving, revising when not initially approved LEA subgrant applications, and budget revisions, monitoring LEA's for compliance with the State of Alaska Part B Plan, providing SEA administrative support of discretionary activities and providing technical assistance to LEA's regarding local 619 programs.

   b) The Section 619 Grant Manager reviews grant application budgets, communicates with LEA's regarding grant expenditures and budget revisions, processes LEA reimbursement request for payment, assists with grants, contracts to LEA's, and IEU.

   c) The Section 619 Clerk Typist assists with clerical duties of the Section 619 Preschool Program.

   d) The Alaska SEA does not provide any direct services to children. All direct services are provided by the LEA's and IEU to the children in their geographic regions. LEA's that are too small to operate a program with a 619 subgrant consolidate their application into a cooperative venture with another LEA or within a cooperative IEU project. The Alaska Department of Education contracts with local LEA's for services as described in our Part B Plan.

APPENDIX C

INTERAGENCY AGREEMENT GUIDELINES

Fundamental steps of the planning and implementation of formal interagency agreements include:

- Identification of all partied of the agreement;
- Review of existing agreements and current policies and regulations;
- Identification of categories or program areas to be covered by the agreement;
- Specification within each category of program modifications, roles of agencies, and funding strategies;
- Establishment of an authority base for decision-making;
- Design of evaluation and monitoring procedures;
- Negotiation of specific components of the agreement;
- Sign-off by authorized personnel; and
- Implementation of the agreement.

Some components of interagency agreements may include:

- The purpose and goals of the agreement;
- Services provided by each agency;
- A description of administrative relationships;
- Referral procedures;
- Financial responsibilities;
- Procedures for the exchange of information;
- Schedules of meetings;
- Procedures for evaluation and revision of the agreement;
- Specific activities and timelines;
- Parameters for the agreement;
- Specific staff members involved in the agreement activities; and
- Procedures for the coordination of individual written plans (IEP, IWRP, IHP).